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SENATE

REPORT
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RAILROAD UNEMPLOYMENT INSURANCE AMENDMENTS OF 1985

APRIL 15 (legislative day, APRIL 8), 1986.—Ordered to be printed

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Mr. HATCH, from the Committee on Labor and Human Resources, submitted the following

REPORT

[To accompany S. 1968]

The Committee on Labor and Human Resources reports an original bill to amend the Railroad Unemployment Insurance Act to ensure sufficient resources to pay benefits, to increase the maximum daily benefits paid to eligible workers and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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I. THE BILL AS REPORTED

S. 1968

A BILL To amend the Railroad Unemployment Insurance Act to assure sufficient resources to pay benefits, to increase the maximum daily benefit, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

70-010 O

S543-4

SECTION 1. SHORT TITLE.

This Act may be cited as the "Railroad Unemployment Insurance Amendments of 1985".

TITLE I—FINANCING PROVISIONS

SEC. 101. COMPENSATION BASE.

(a) DEFINITION OF COMPENSATION.—Section 1(i) of the Railroad Unemployment Insurance Act is amended—

(1) by inserting "(1)" after "(i)";

(2) by striking out "$300 for any month before July 1, 1954, or in excess of $350 for any month after June 30, 1954, and before the calendar month next following the month in which this Act was amended in 1959, or in excess of $490 for any month after the month in which this Act was so amended and before January 1984, or in excess of $600 for any month after 1983" and inserting in lieu thereof "the monthly compensation base for any month as determined under subdivisions (2) and (3) of this subsection"; and

(3) by adding at the end thereof the following new subdivisions:

"(2) For purposes of subdivision (1) of this subsection, the 'monthly compensation base' shall be $400 for calendar months prior to 1984, $600 for calendar months after 1983 and prior to 1987, and for calendar months after 1986, the amount computed under subdivision (3).

"(3) The monthly compensation base for each calendar year after 1986 shall be $600 or, if larger, the amount computed pursuant to the following formula: B=$600(1+((A−37,800)/56,700)). For purposes of this formula, 'B' represents the dollar amount of the monthly compensation base, and 'A' represents the amount of the 'applicable base' relating to Tier 1 taxes for the calendar year for which the monthly compensation base is being computed, as determined under section 3231(e)(2) of the Internal Revenue Code of 1954. If the monthly compensation base computed under this formula is not a multiple of $5, it shall be rounded to the nearest multiple of $5, with such rounding being upward in the event that the amount computed is equidistant between two multiples of $5.".

(b) CONFORMING AMENDMENTS.—(1) Section 1(k) of such Act is amended by striking out "$1,500" and inserting in lieu thereof "an amount equal to 5 times the monthly compensation base for months in such base year as computed under subsection (i)".

(2) Section 2(c) of such Act is amended by striking out "not in excess of $775 in any month shall be taken into account" and inserting in lieu thereof "shall be taken into account that is not in excess of $775 in any month prior to 1987 and, in any month in a base year after 1986, is not in excess of an amount which bears the same ratio to $775 as the monthly compensation base for that year as computed under section 1(i) bears to $600".

(3) Section 4(a-2)(i)(A) of such Act is amended—

(A) by striking out "$1,500" and inserting in lieu thereof "$3,000"; and

(B) by inserting before the semicolon at the end thereof the following: "and before 1987 or, if any part of such compensa-

tion is paid in a calendar year after 1986, not less than an amount equal to 5 times the monthly compensation base for months in such calendar year, as computed under section 1(i)".

(4) Section 12 of such Act is amended by adding at the end thereof the following new subsection:

"(q) On or before December 1 of 1986 and of each year thereafter, the Board shall compute in accordance with section 1(i) the monthly compensation base which shall be applicable with respect to months in the following calendar year, and shall also compute the amounts in sections 1(k), 2(c), 3, and 4(a-2)(i)(A), which are related to changes in the monthly compensation base. On or before June 1 of 1987 and of each year thereafter, the Board shall compute in accordance with section 2(a)(3) the maximum daily benefit rate which shall be applicable with respect to days of unemployment or days of sickness in registration periods beginning after June 30 of each such year. Not later than 10 days after each such determination, the Board shall publish notice in the Federal Register and shall notify each employer and employee representative of the amount determined.".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on the date of the enactment of this Act.

SEC. 102. EMPLOYER CONTRIBUTIONS AND EXPERIENCE RATING.

(a) CONTRIBUTIONS.—Section 8(a) of the Railroad Unemployment Insurance Act is amended to read as follows:

"(a) CONTRIBUTIONS.—

"(1) AMOUNT OF CONTRIBUTIONS.—

"(A) GENERAL RULE.—Every employer shall pay a contribution, with respect to having employees in his service, equal to the percentage determined under subparagraph (B), (C) or (D), whichever is applicable, of so much of the compensation paid in any calendar month by such employer to any employee as is not in excess of the monthly compensation base for that month as computed under section 1(i). If compensation is paid to an employee by more than one employer in any calendar month, the contributions required by this subsection shall not apply to any amount of the aggregate compensation paid to such employee by all such employers in such calendar month which is in excess of such monthly compensation base, and each employer (other than a subordinate unit of a national-railway-labor-organization employer) shall be liable for that portion of the contribution with respect to such compensation paid by all such employers which the compensation paid by him to such employee bears to the total compensation paid in such month by all such employers to such employee. In the event that the compensation paid by such employers to the employee in such month is less than such monthly compensation base, each subordinate unit of a national-railway-labor-organization employer shall be liable for such portion of any additional contribution as the compensation paid by such employer to such employee in such month bears to the total compensation paid by all such employers to such employee in such month.

"(B) TRANSITIONAL CONTRIBUTIONS.—With respect to compensation paid in calendar months prior to the end of the first full calendar year following the date of the enactment of the Railroad Unemployment Insurance Amendments of 1985, the contribution rate shall be 8 percent. With respect to compensation paid in calendar months in the next calendar year, the contribution rate shall be the smaller of 12 percent or the percentage computed pursuant to the following formula: $R=(2A+B)/3$. With respect to compensation paid in calendar months in the third full calendar year following such date of enactment, the contribution rate shall be the smaller of 12 percent or the percentage computed pursuant to the following formula: $R=(A+2C)/3$. For purposes of these formulae, R represents the applicable contribution rate expressed as a percentage for months in the calendar year, A represents the contribution rate determined under the first sentence of this subparagraph, B represents the percentage rate for the employer as determined under subparagraph (C) for the second full calendar year following the date of the enactment of the Railroad Unemployment Insurance Amendments of 1985, and C represents the percentage rate for the employer as determined under subparagraph (C) for the third full calendar year following such date of enactment. For purposes of computing B and C, (i) the percentage rate computed under subparagraph (C), if more than 12 percent, shall not be reduced to 12 percent; and (ii) any computations which under subparagraph (C) are to be made on the basis of a 4-quarter or a 12-quarter period ending on a given June 30 shall be made on the basis of a period commencing with the first day of the first calendar quarter following the date of the enactment of the Railroad Unemployment Insurance Amendments of 1985, and ending on that June 30, and the amount so computed shall be increased to an amount that bears the same ratio to the amount so computed as 4 or 12 bears to the number of calendar quarters in the period on which the computation was based.

"(C) EXPERIENCE-RATED CONTRIBUTIONS.—With respect to compensation paid in calendar months in a calendar year which begins after the expiration of three full calendar years following the date of the enactment of the Railroad Unemployment Insurance Amendments of 1985, the contribution rate for each employer shall be determined as follows:

"(i) STEP 1.—The employer's benefit ratio as of the preceding June 30 shall be computed to four decimal points in accordance with subdivision (2) of this subsection.

"(ii) STEP 2.—The employer's reserve ratio as of the preceding June 30 as computed to four decimal points in accordance with subdivision (4) of this subsection shall be subtracted from the ratio arrived at under step 1.

"(iii) STEP 3.—The pooled credit ratio for the calendar year, if any, as computed to four decimal points in accordance with subdivision (12) of this subsection shall be subtracted from the ratio arrived at under step 2.

"(iv) STEP 4.—The total arrived at under step 3 shall be multiplied by 100 so as to obtain a percentage rate, which shall be rounded to the nearest 100th of 1 percent. If the total arrived at under step 3 is 0 or less than 0, the percentage rate as so computed shall be 0.

"(v) STEP 5.—0.65 shall be added to the percentage rate arrived at under step 4, representing the portion of the employer's contribution which is to be deposited to the credit of the fund under subsection (i).

"(vi) STEP 6.—Unless a surtax is in effect with respect to such calendar year under section 3321(c)(1)(B) of the Internal Revenue Code of 1954, the surcharge rate for the calendar year, if any, as computed in accordance with paragraph (14) shall be added to the percentage arrived at under step 5.

"(vii) STEP 7.—The pooled charge ratio for the calendar year, if any, as computed to 4 decimal points in accordance with paragraph (13) shall be multiplied by 100, and the amount so computed shall be added to the percentage rate arrived at under step 6.

"(viii) STEP 8.—The percentage rate arrived at after the application of steps 5, 6, and 7 shall be the contribution rate applicable to the employer in the following calendar year; except that, if the total is in excess of 12 percent, the contribution rate shall be reduced to 12 percent.

"(D) NEW-EMPLOYER CONTRIBUTION RATES.—Notwithstanding the provisions of subparagraphs (B) and (C), the contribution rate applicable to a new employer who does not become subject to this Act until after the date of the enactment of the Railroad Unemployment Insurance Amendments of 1985 shall be determined as follows:

"(i) With respect to compensation paid in calendar months prior to the end of the first full calendar year in which the employer is subject to this Act, the contribution rate shall be the average contribution rate paid by all employers during the three calendar years preceding the calendar year before the calendar year in which the compensation is paid. The average contribution rate shall be determined (I) by dividing the aggregate contributions paid by all employers under this subsection in those three calendar years by the aggregate compensation with respect to which such contributions were paid, and (II) by multiplying the resulting ratio as computed to four decimal points by 100.

"(ii) With respect to compensation paid in calendar months in the next calendar year, the contribution rate shall be the smaller of 12 percent or the percent-

age rate computed pursuant to the following formula: R=(2(A2)+B)/3.

"(iii) With respect to compensation paid in calendar months in the third full calendar year in which the employer is subject to the coverage of this Act, the contribution rate shall be the smaller of 12 percent or the percentage rate computed pursuant to the following formula: R=(A3+2C)/3. With respect to all calendar months in calendar years subsequent to that calendar year, the contribution rate shall be determined under subparagraph (C).

"(iv) For purposes of the formulae in clauses (ii) and (iii), R represents the applicable contribution rate expressed as a percentage for months in the calendar year; A1 represents the contribution rate determined under clause (i) for such employer's first full calendar year; A2 represents the contribution rate which would have been determined under clause (i) if the employer's second calendar year had been its first full calendar year; A3 represents the contribution rate which would have been determined under clause (i) if the employer's third calendar year had been its first full calendar year; B represents the contribution rate for the employer as determined under subparagraph (C) for the employer's second full calendar year; and C represents the contribution rate for the employer as determined under subparagraph (C) for the employer's third full calendar year. For purposes of computing B and C, (I) the percentage rate computed under subparagraph (C), if more than 12 percent, shall not be reduced to 12 percent, and (II) any computations which under subparagraph (C) are to be made on the basis of a 4-quarter or 12-quarter period ending on a given June 30, shall be made on the basis of a period commencing with the first day of the first calendar quarter following the date on which the employer first paid compensation subject to this Act and ending on such June 30, and the amount so computed shall be increased to an amount which bears the same ratio to the amount so computed as 4 or 12 bears to the number of calendar quarters in the period on which the computation was based.

"(2) BENEFIT RATIO.—An employer's benefit ratio as of any given June 30 shall be determined by dividing all benefits charged to the employer under subdivision (15) of this subsection during the 12 calendar quarters ending on such June 30 by the employer's three-year compensation base as of such June 30 as computed in accordance with subdivision (3) of this subsection.

"(3) THREE-YEAR COMPENSATION BASE.—An employer's three-year compensation base as of any given June 30 is the aggregate compensation with respect to which contributions were paid by the employer under this subsection in the 12 calendar quarters ending on such June 30.

"(4) RESERVE RATIO.—An employer's reserve ratio as of any given June 30 shall be computed by dividing the employer's reserve balance as of such June 30, as computed in accordance with subdivision (6) of this subsection, by that employer's one-year compensation base as of such June 30, as computed in accordance with subdivision (5) of this subsection. The employer's reserve ratio may be either a positive or a negative number, depending upon whether the employer's reserve balance is a positive or negative number.

"(5) ONE-YEAR COMPENSATION BASE.—An employer's one-year compensation base as of any given June 30 is the aggregate compensation with respect to which contributions were paid by the employer under this subsection in the four calendar quarters ending on such June 30.

"(6) RESERVE BALANCE.—An employer's reserve balance as of any given June 30 shall be determined by subtracting the employer's cumulative benefit balance as of such June 30, computed in accordance with subdivision (7) of this subsection, from the employer's net cumulative contribution balance as of such June 30, computed in accordance with subdivision (8) of this subsection. An employer's reserve balance may be either positive or negative, depending upon whether or not that employer's net cumulative contribution balance exceeds the employer's cumulative benefit balance.

"(7) CUMULATIVE BENEFIT BALANCE.—An employer's cumulative benefit balance as of any given June 30 shall be determined by adding (i) the net amount of the benefits charged to the employer in accordance with subdivision (15) of this subsection on or after the first day of the first calendar quarter after the date of the enactment of the Railroad Unemployment Insurance Amendments of 1985, up to and including such June 30, and (ii) the cumulative amount of the employer's unallocated charges for the same period, if any, as computed in accordance with subdivision (9) of this subsection.

"(8) NET CUMULATIVE CONTRIBUTION BALANCE.—An employer's net cumulative contribution balance as of any given June 30 shall be determined as follows:

"(i) STEP 1.—The sum of (I) all contributions paid by the employer pursuant to this subsection, (II) all taxes paid by the employer pursuant to section 3321(c)(1)(B) of the Internal Revenue Code of 1954, and (III) any taxes paid by the employer pursuant to section 3321(c)(1)(A) of the Internal Revenue Code of 1954 (after the outstanding balance of loans made under section 10(d) of this Act prior to October 1, 1985, plus interest, have been paid) on or after the first day of the first calendar quarter after the date of the enactment of the Railroad Unemployment Insurance Amendments of 1985, up to and including such June 30, shall be computed.

"(ii) STEP 2.—An amount equal to the amount of such contributions deposited to the credit of the fund under subsection (i) of this section shall be subtracted from the amount arrived at under step 1.

"(iii) STEP 3.—An amount equal to the aggregate amount by which such contributions were reduced in prior calendar years as a result of pooled credits, if any, under subdivision (1)(C)(iii) of this subsection shall be added to the amount arrived at under step 2.

"(9) UNALLOCATED CHARGE.—An employer's unallocated charge as of any given June 30 is the amount which, as of such June 30, bears the same ratio to the system unallocated charge balance, computed in accordance with subdivision (10) of this subsection, as the employer's one-year compensation base, computed in accordance with subdivision (5) of this subsection, bears to the system compensation base, computed in accordance with subdivision (11) of this subsection.

"(10) SYSTEM UNALLOCATED CHARGE BALANCE.—The system unallocated charge balance as of any given June 30 shall be determined as follows:

"(i) STEP 1.—The aggregate amount of all interest paid by the account on loans from the Railroad Retirement Account after September 30, 1985, pursuant to section 10(d) of this Act, during the four calendar quarters ending on that June 30 shall be computed.

"(ii) STEP 2.—The aggregate amount of any additions to the system unallocated charge balance specified in subdivisions (15) and (16) of this subsection during that period shall be added to the amount arrived at under step 1.

"(iii) STEP 3.—The aggregate amount of any other expenditures by the account during such period not chargeable to any individual employer under subdivision (15) of this subsection or to the fund under section 11 of this Act shall be added to the amount arrived at under step 2.

"(iv) STEP 4.—The aggregate amount of all income to the account, under section 10(a)(iv) or section 10(a)(vii) of this Act, during that period shall be subtracted from the amount arrived at under step 3.

"(v) STEP 5.—The aggregate amount of all transfers to the account, pursuant to section 11(d) of this Act, during that period shall be subtracted from the amount arrived at under step 4.

"(vi) STEP 6.—The aggregate amount of all other income and receipts of the account, during that period, which are not assigned to individual employer balances shall be subtracted from the amount arrived at under step 5.

"(vii) STEP 7.—The net cumulative contribution balance of each employer whose balance has been canceled pursuant to subdivision (16) of this subsection, during that period, calculated as of the date of such cancellation, shall be subtracted from the amount arrived at under step 6.

"(11) SYSTEM COMPENSATION BASE.—The system compensation base as of any given June 30 shall be determined by adding together the amounts of the one-year compensation bases of all employers and employee representatives subject to this Act, computed in accordance with subdivision (5) of this subsection, as of such June 30.

"(12) POOLED CREDIT RATIO.—The pooled credit ratio, if any, for a calendar year shall be determined as follows:

"(i) STEP 1.—The balance to the credit of the account as of the close of business on the preceding June 30, including any amounts in the account attributable to loans made to the account under section 10(d) of this Act prior to October 1, 1985, but disregarding the obligation of the account to repay such loans and interest thereon, shall be computed. There will be a pooled credit ratio for the calendar year only if that balance is in excess of the greater of $250,000,000 or of the amount that bears the same ratio to $250,000,000 as the system compensation base as of that June 30 bears to the system compensation base as of the first June 30 which occurs more than twelve calendar months after the date of the enactment of the Railroad Unemployment Insurance Amendments of 1985, as computed in accordance with subdivision (11) of this subsection.

"(ii) STEP 2.—If there is such an excess amount as determined under step 1, it shall be divided by the system compensation base as of the June 30 preceding the calendar year. The result shall be the pooled credit ratio for the calendar year.

"(13) POOLED CHARGE RATIO.—The pool charge ratio, if any, for a calendar year shall be determined as follows:

"(A) STEP 1.—With respect to each employer whose contribution rate for that calendar year as computed through step 6 of paragraph (1)(C) was greater than 12 percent, the employer's 1-year compensation base as of the preceding June 30, as computed in accordance with paragraph (5), shall be multiplied by the difference between—

"(i) the percentage rate as computed through step 6 of paragraph (1)(C); and

"(ii) 12 percent.

"(B) STEP 2.—The amounts arrived at under step 1 for all such employers shall be added so as to obtain an aggregate amount for all such employers.

"(C) STEP 3.—For each employer whose contribution rate as computed under steps 1, 2, and 3 of paragraph (1)(C) was less than zero, the percentage rate by which such employer's rate was raised in order to bring the employer's rate to zero shall be multiplied by the employer's 1-year compensation base as of the preceding June 30. The amounts computed under the preceding sentence for all such employers shall be added, and the total so computed shall be subtracted from the amount arrived at under step 2.

"(D) STEP 4.—The aggregate amount arrived at under step 3 shall be divided by the system compensation base for all employers as of the preceding June 30 as computed under paragraph (11), minus the compensation base of those employers whose rates computed through step 6 of paragraph (1)(C) exceeded 12 percent. The result is the pooled charge ratio for the calendar year.

"(14) SURCHARGE RATE.—The surcharge rate for a calendar year, if any, shall be determined as follows:

"(i) STEP 1.—The balance to the credit of the account as of the close of business on the preceding June 30, including any amounts in the account attributable to loans made to the account under section 10(d) of this Act prior to October 1, 1985, but disregarding the obligation of the account to repay such loans and interest thereon, shall be computed. There will be a surcharge rate for the calendar year only if such balance is less than the greater of $100,000,000 or of the amount which bears the same ratio to $100,000,000 as the system compensation base as of that June 30 bears to the system compensation base as of the first June 30 which occurs more than twelve calendar months after the date of the enactment of the Railroad Unemployment Insurance Amendments of 1985, as computed in accordance with subdivision (11) of this subsection.

"(ii) STEP 2.—If the balance to the credit of the account is less than the greater of the amounts referred to in the second sentence of step 1 but is equal to or greater than the greater of $50,000,000 or the amount which bears the same ratio to $50,000,000 as the system compensation base as of that June 30 bears to the system compensation base as of the first June 30 which occurs more than twelve calendar months after the date of the enactment of the Railroad Unemployment Insurance Amendments of 1985, the surcharge rate for the calendar year shall be 1.5 percent. If the balance to the credit of the account is less than the greater of the amounts referred to in the preceding sentence, the surcharge rate for the calendar year shall be 2.5 percent.

"(15) CHARGEABLE BENEFITS.—Commencing the first day of the first calendar quarter beginning after the date of the enactment of the Railroad Unemployment Insurance Amendments of 1985, all benefits paid to an employee for days of unemployment or days of sickness shall be charged to that employee's base year employer by adding amounts equal to the amounts of such benefits to the employer's cumulative benefit balance; except that benefits paid by reason of strikes or work stoppages growing out of labor disputes shall not be added to the employer's cumulative benefit balance but instead shall be added to the system unallocated charge balance, and a sum equal to each amount realized in recovery for overpayment, erroneous payment or reimbursement of benefits and credited to the account pursuant to section 10(a)(v) or 10(a)(viii) of this Act shall be subtracted from the cumulative benefit balances of the employers of the employees to whom such an amount was paid as a benefit in the proportion to the amount by which each such employer's cumulative benefit balance was increased as a result of the payment of the benefit. All benefits paid to an employee who had more than one base-year employer shall be charged to the cumulative benefit balances of the employee's base year employers (A) in reverse chronological order of the employee's employment with each such employer in the base

year if the employer at the time of the claim was the last base year employer, and the amount charged to each employer shall not exceed the compensation paid by the employer to the employee in the base year, and (B) in all other cases, in the same ratio as the compensation paid to such employee by the employer bears to the total of such compensation paid to such employee by all such employers in the base year. All benefits chargeable under the preceding sentence to an employer for which the Board has canceled balances under subdivision (16) of this subsection shall be added to the system unallocated charge balance.

"(16) DEFUNCT EMPLOYER.—Whenever the Board determines, pursuant to such regulations as the Board may prescribe, that an employer has permanently ceased to pay compensation with respect to which contributions are payable pursuant to this subsection, the Board shall, effective the date of the Board's determination, transfer the employer's net cumulative contribution balance as a subtraction from, and cumulative benefit balance as an addition to, the system unallocated charge balance, and cancel all other accumulations of the employer.

"(17) INDIVIDUAL EMPLOYER RECORD.—As of the first day of the first calendar quarter beginning after the date of the enactment of the Railroad Unemployment Insurance Amendments of 1985, the Board shall commence maintaining an individual employer record with respect to each employer, and the records necessary to determine pooled charges, pooled credits and unallocated charge balances for the system. Whenever a new employer begins paying compensation with respect to which contributions are payable pursuant to this subsection, the Board shall establish and maintain an individual employer record for such employer. The term 'individual employer record' means an individual employer's benefit ratio, reserve ratio, one-year compensation base, three-year compensation base, unallocated charge, reserve balance, net cumulative contribution balance, and cumulative benefit balance.

"(18) JOINT EMPLOYER RECORDS.—Pursuant to regulations prescribed by the Board, the Board may allow two or more employers, upon application, to establish and maintain, or to discontinue, a joint individual employer record for such employers as though such joint record constituted a single employer's individual employer record.

"(19) MERGERS, CONSOLIDATIONS OR OTHER CHANGES IN EMPLOYER IDENTITY.—(A) In the event of a merger, consolidation, unification, or reorganization in which an employer combines with another employer and the combination entails no partitioning of the property of the employer, the individual employer records of the two employers shall be combined into a joint individual employer record if the parties request such joint treatment pursuant to subdivision (18) of this subsection or if the Board otherwise determines pursuant to regulations prescribed by the Board that such joint treatment is desirable.

"(B) In the event of a merger, consolidation, unification, or reorganization in which an employer combines with another

entity which is not an employer, the employer's individual employer record shall attach to the combined entity.

"(C) In the event property of an employer is sold or transferred to another employer or other entity, or is partitioned among two or more employers or entities, the cumulative benefit balance, net cumulative contribution balance, one-year compensation base, and three-year compensation base of the employer shall be prorated among the employers which receive the property, including any entities which become employers by virtue of such transfer or partition, in such equitable manner as the Board by regulation shall prescribe.

"(D) The cumulative benefit balance, net cumulative contribution balance, one-year compensation base, and three-year compensation base of an employer which reincorporates or otherwise alters its corporate identity in a transaction not involving a merger, consolidation, or unification shall attach to the reincorporated or altered entity.

"(E) If an employer abandons property or discontinues service but continues to operate as an employer, the employer's individual employer record shall continue to be calculated as provided in this subsection without retroactive adjustment.".

(b) EMPLOYEE REPRESENTATIVES.—Section 8(b) of the Railroad Unemployment Insurance Act is amended to read as follows:

"(b) Each employee representative shall pay a contribution with respect to so much of the compensation paid to him for services performed as an employee representative as is not in excess of the monthly compensation base computed in accordance with section 1(i) of this Act, at a rate which shall be determined under subsection (a) of this section in the same manner and with the same effect as if the employee organization by which such employee representative is employed were an employer as defined in this Act.".

(c) COLLECTION AND DEPOSIT OF CONTRIBUTIONS.—Section 8(f) of the Railroad Unemployment Insurance Act is amended by striking out "0.5" and inserting in lieu thereof "0.65".

(d) REMEDIES.—Section 8(h) of the Railroad Unemployment Insurance Act is amended by inserting at the end thereof the following: "The remedies under the first sentence of an employer or employee representative who contests the amount of contributions payable by him shall include, and extend to, a contention that the contribution rate determined by the Board under subsections (a) or (b) of this section to be applicable to such employer or employee representative is inaccurate or otherwise improper.".

(e) DETERMINATIONS BY THE BOARD.—Section 8 of the Railroad Unemployment Insurance Act is further amended by redesignating subsections (c) through (h) as subsections (f) through (k), respectively, and by inserting after subsection (b) the following new subsection:

"(c) Not later than October 15 of each year, the Board shall proclaim the balance to the credit of the account as of the preceding June 30 for purposes of subdivisions (12) and (14) of subsection (a) of this section, the balance of any advances to the account under section 10(d) of this Act after September 30, 1985, which has not been repaid with interest as provided in such section as of September 30 of that year, the system compensation base as of that June

30 as computed in accordance with subdivision (11) of that subsection, the system unallocated charge balance as of that June 30, as computed in accordance with subdivision (10) of that subsection, and the pooled credit ratio, pooled charge ratio and surcharge rate, if any, as determined under subdivision (12), (13), or (14) of that subsection and applicable in the following calendar year. As soon as is practicable thereafter, the Board shall publish notice in the Federal Register of the amounts so determined and proclaimed.

"(d) Not later than the last day of any calendar quarter, the Board shall notify each employer and employee representative of its net cumulative contribution balance and cumulative benefit balance as of the end of the preceding calendar quarter, as computed in accordance with subdivisions (7) and (8) of subsection (a) of this section as of the last day of such preceding calendar quarter rather than as of a given June 30 if such last day is not a June 30. Not later than October 15 of any year, the Board shall notify each employer and employee representative of its benefit ratio, reserve ratio, one-year compensation base, three-year compensation base, unallocated charge, and reserve balance as of the preceding June 30 as computed in accordance with subdivisions (2), (3), (4), (5), (6), and (9) of subsection (a) of this section, and of the contribution rate applicable to the employer or employee representative in the following calendar year as computed under subdivision (1) (B), (C), or (D) of that subsection.

"(e) Notwithstanding any other provision of law, upon request by an employer or employee representative, the Board shall make available to such employer or employee representative any information available to the Board which may be necessary to verify the accuracy of a contribution rate determined by the Board to be applicable to such employer or employee representative, or of any component of that contribution rate including the accuracy of the employer's individual employer record, upon payment by such employer or employee representative to the Board of the cost incurred by the Board in making such information available. The amounts so paid to the Board shall be credited to and deposited in the fund.".

(f) EFFECTIVE DATE.—The amendments made by this section shall become effective on the date of the enactment of this Act; except that the amendment made by subsection (c) shall be effective with respect to compensation paid on or after the first January 1 following such date of enactment.

SEC. 103. RAILROAD UNEMPLOYMENT INSURANCE ACCOUNT.

(a) IN GENERAL.—Section 10(a) of the Railroad Unemployment Insurance Act is amended by striking out "0.5" and inserting in lieu thereof "0.65".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective with respect to compensation paid in months after December 1985.

SEC. 104. RAILROAD UNEMPLOYMENT INSURANCE ADMINISTRATION ACCOUNT.

(a) IN GENERAL.—Section 11(a) of the Railroad Unemployment Insurance Act is amended by striking out "0.5" and inserting in lieu thereof "0.65".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective with respect to compensation paid in months after December 1985.

TITLE II—BENEFIT ADJUSTMENTS

SEC. 201. DAYS AND AMOUNTS OF BENEFITS.

(a) Section 2(a) of the Railroad Unemployment Insurance Act is amended—

(1) by striking out "(1)" after "(a)";

(2) by striking out "four during any registration period" in the first sentence and inserting in lieu thereof "seven during the first registration period within a benefit year and for each day of unemployment in excess of four during any subsequent registration period in the same benefit year";

(3) by striking out the second sentence and inserting in lieu thereof "Benefits shall be payable to any qualified employee for days of sickness after the seventh consecutive day of sickness in a period of continuing sickness, but excluding seven days of sickness in the first registration period in a benefit year and excluding four days of sickness in any subsequent registration period in the same benefit year";

(4) by inserting "(2)" at the beginning of the second paragraph;

(5) by striking out "and" after "shall not exceed $24 per day of such unemployment or sickness" in the second paragraph and inserting in lieu thereof a comma;

(6) by inserting "but before January 1, 1986," after June 30, 1976," in the second paragraph;

(7) by inserting before the period at the end of the first sentence of the second paragraph the following: ", that for registration periods beginning after December 31, 1985, but before July 1, 1987, such amount shall not exceed $27 per day of unemployment or sickness, and that for registration periods beginning after June 30, 1987, such amount shall not exceed the maximum daily benefit rate provided in subdivision (3) of this subsection";

(8) by inserting after the second paragraph (redesignated as subdivision (2)) the following new subdivision:

"(3) On or before June 1 of 1987 and of each year thereafter, the Board shall determine the maximum daily benefit rate which shall be applicable with respect to days of unemployment or days of sickness in registration periods beginning after June 30 of each such year. The maximum daily benefit rate for each benefit year shall be the amount computed pursuant to the following formula, but not less than $27: $BR=\$25(1+((A-600)/900))$. For purposes of this formula, 'BR' represents the maximum daily benefit rate, and 'A' represents the amount obtained by dividing the amount of the 'applicable base' relating to tier I taxes as determined under section 3231(e)(2) of the Internal Revenue Code of 1954 for the calendar year in which the benefit year begins by 60, with this quotient being rounded down to the nearest $100. If the maximum daily benefit rate computed under this formula is not a multiple of $1, it shall be rounded to the nearest multiple of $1, with such rounding

being upward in the event the amount computed is equidistant between two multiples of $1 "; and

(9) by inserting "(4)" at the beginning of the last paragraph.

(b) EFFECTIVE DATE.—The amendments made by paragraphs (2) and (3) of subsection (a) shall be effective with respect to registration periods in benefit years beginning after December 31, 1985. The amendments made by the remaining paragraphs of subsection (a) shall become effective on the date of the enactment of this Act.

SEC. 202. QUALIFIED EMPLOYEE.

(a) IN GENERAL.—Section 3 of the Railroad Unemployment Insurance Act is amended to read as follows:

"QUALIFIED EMPLOYEE

"SEC. 3. An employee shall be a 'qualified employee' if the Board finds that he will have had compensation with respect to each of not less than six months in the base year and that his compensation in the base year (excluding earnings in any month in excess of the monthly compensation base as provided in section 1(i) of this Act with respect to the base year) will not have been less than an amount equal to the five times the monthly compensation base as provided in section 1(i) of this Act with respect to the base year.".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective with respect to base years after 1984.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. CLAIMS.

(a) NOTICE.—Section 5(b) of the Railroad Unemployment Insurance Act is amended by adding at the end thereof the following: "When an application for benefits is filed with the Board, the Board shall provide notice of such application to the claimant's base-year employer or employers and afford such employer or employers an opportunity to submit information relevant to the application before making an initial determination with respect to the application. When the Board initially determines to pay benefits to a claimant under this Act, the Board shall provide notice of such determination to the claimant's base-year employer or employers.".

(b) APPEALS.—Section 5(c) of the Railroad Unemployment Insurance Act is amended—

(1) by inserting at the end of the first paragraph the following: "In any such case, the Board or the person or reviewing body so established or assigned shall, by publication or otherwise, notify all parties properly interested of their right to participate in the hearing and of the time and place of the hearing.";

(2) by inserting after the second paragraph the following paragraph:

"Any base-year employer of a claimant whose claim for benefits has been granted in whole or in part, either in an initial determination or in a determination after a hearing pursuant to the first paragraph of this subsection, and who contends that the determination is erroneous for a reason or reasons other than one that is reviewable under the fourth paragraph of this subsection, may

appeal to the Board for the review of such determination. Despite such an appeal, the benefits awarded shall be paid to such claimant, subject to recovery by the Board if and to the extent found on the appeal to have been erroneously awarded. The Board shall take such action as is appropriate to recover the amount of such benefits, including (if feasible) adjustment in subsequent payments pursuant to the first two paragraphs of section 2(d) of this Act. Upon an appeal, the Board shall review the determination appealed from and for such review may designate one of its officers or employees to receive evidence and report to the Board, together with recommendations. In any such case the Board or the person so designated shall, by publication or otherwise, notify all parties properly interested of their right to participate in the proceeding and, if a hearing is to be held, of the time and place of the hearing. At the request of any party properly interested the Board shall provide for a hearing, and may provide for a hearing on its own motion. The Board shall prescribe regulations governing the appeals provided for in this paragraph and for decisions upon such appeal.";

(3) by striking out "two" in the first sentence of the fifth paragraph (after insertion of the preceding paragraph) and inserting in lieu thereof "three"; and

(4) by inserting before the final paragraph the following paragraph:

"For purposes of this subsection and subsections (d) and (f) of this section, any base-year employer of the claimant is a properly interested party.".

(c) JUDICIAL REVIEW.—Section 5(f) of the Railroad Unemployment Insurance Act is amended—

(1) by inserting after "member," in the first sentence "or any base-year employer of the claimant,"; and

(2) by inserting after the second sentence the following: "A copy of such petition also shall forthwith be served upon any other properly interested party, and such party shall be a party to the review proceeding.".

(d) DISCLOSURE.—(1) Section 12(d) of the Railroad Unemployment Insurance Act is amended—

(A) by striking out "and" before "(iii)"; and

(B) by inserting before the period at the end of the first sentence the following: "; and (iv) the Board shall disclose to any base-year employer of a claimant for benefits any information, including information as to the claimant's identity, that is necessary or appropriate to notify such employer of the claim for benefits or to allow full and fair participation by such employer in an appeal, hearing or other proceeding relative to the claim pursuant to section 5 of this Act.".

(2) Section 12(n) of the Railroad Unemployment Insurance Act is amended by striking out "court" in the proviso to the second paragraph.

(e) EFFECTIVE DATE.—The amendments made by this section shall become effective on the date of the enactment of this Act.

II. Summary of the Bill

PURPOSE

The purpose of the bill is to amend the Railroad Unemployment Insurance Act (RUI Act) in order to provide a more equitable, efficient and effective unemployment and sickness program for railroad employees. The provisions found in the bill effectuate recommendations of the Railroad Unemployment Compensation Committee and is intended to complement railroad unemployment legislation contained in the Budget Reconciliation Act of 1986 (PL 99-272).

SUMMARY

The bill would amend the RUI Act as follows:

A. The maximum daily benefit payable to eligible workers would be increased from $25 to $27 for both unemployment and sickness benefits;

B. The daily benefit rate would be indexed to ensure that the benefit level reflects the changes in employee compensation rates;

C. Eligibility for benefits would be tightened to ensure that eligibility is limited to regular railroad employees and a three day waiting period would be established for the first registration period of each year;

D. The employer contribution base to the unemployment insurance system would be indexed to the social Security Tier 1 Tax to ensure that revenues available to pay benefits will increase in a manner correlative with increases in the daily benefits rates;

E. The maximum contribution rate for employers would be raised form 8% to 12%, with any required contribution in excess of the 12% ceiling being assessed proportionately to other employers;

F. Experience rating would replace the current requirement that all employers pay according to the same contribution rate based on the balance of the RUI benefits account; instead, each employer's contribution rate would depend on the amount of benefits paid to that employer's employees;

G. An additional surcharge of 1.5% or 2.5% would be assessed to all employers where in the preceding year the fund reserve out of which the benefits are paid drops below specified levels;

H. Administrative costs assessed to each employer would be increased to ensure a sufficient level of funds ot process claims;

I. Employers would be authorized to participate in the processing and appeal of benefit claims in order to ensure that unjustifiable claims are not paid by mistake, thereby keeping their contribution requirements at a lower level.

III. Background and Need for the Legislation

Prior to 1939, the railroad industry was covered by the same federal-state unemployment compensation system that today contin-

ues to provide unemployment compensation benefits to workers in other private industries. The Railroad Unemployment Insurance Act (RUI Act), which was enacted in 1938, established a separate federal unemployment compensation system for railroad workers. A 1946 amendment to the RUI Act, effective July 1, 1947, expanded the program to provide sickness benefits to eligible railroad workers. It should be noted that there is no comparable uniform coverage of sickness benefits under the federal-state system. In fact, only five states and Puerto Rico have established a statutory system for the payment of sickness benefits to workers in other industries.

The Railroad Unemployment Insurance (RUI) system is administered by the Railroad Retirement Board, which also administers the railorad retirement system. In general, the benefit amounts and qualifying requirements are the same for both unemployment and sickness benefits. The system provides equal unemployment and sickness benefits for similarly situated individuals regardless of the location of their work or residence. Both types of benefits are paid out of the Railroad Unemployment Insurance Account (RUI Account) and are funded through revenues paid by employers in the railroad industry. The contribution rate varies depending on the balance of funds in the RUI Account.

Because of the volatile nature of unemployment in the rail industry, it is difficult to devise an unemployment compensation system which will always have revenues equivalent to the amount of paid benefits. Consequently, in order to avoid violent fluctuations in the benefit or contribution levels, it is necessary to provide a source of additional funds to be used during high unemployment. For example, state unemployment compensation systems are authorized to borrow from the federal system. The RUI system, however, may only borrow from the railroad retirement system, and such loans are subject to interest payments.

For over four decades, the RUI system operated without any serious financial problems. While it was occasionally necessary to borrow from the railroad retirement system, the loans were repaid and through the Fiscal Year 1980, no loans were outstanding. During the early 1980s, however, railroad employment dropped more than 20%, the level of revenues fell sharply, and the number of employees drawing unemployment benefits increased dramatically. To cover the shortfall, the RUI Account borrowed heavily from the retirement account, a loan which has not yet been repaid.

As a result, by the end of 1985, the RUI system owed the railroad retirement system $804 million in principal and interest. This debt threatens to absorb any surplus revenues which might be generated by a more healthy rail industry and to most observers repayment of the debt is a virtual impossibility under the existing system.

In 1983, Congress included several emergency stopgap measures in the Railroad Retirement Solvency Act of 1983 (P.L. 98–76) which were intended to mitigate this crisis. First, the compensation base cap upon which employer contributions were computed was increased from a $400 monthly maximum to a $600 monthly maximum, increasing by 50% the RUI contributions. Secondly, a separate unemployment repayment tax was levied against the railroads, effective from July 1, 1986, through September 30, 1990,

with the revenues to be applied against the debt owed to the railroad retirement system.

It was understood during the passage of the Railroad Retirement Solvency Act that the bill did not provide a permanent solution to the insolvency of the system and that the level of benefits was less than the amounts available under comparable state unemployment systems. Congress concluded that a study of the RUI system should precede consideration of additional, permanent remedies. Therefore, the 1983 Act established the Railroad Unemployment Compensation Committee. The Committee was directed to review all aspects of the RUI system and to report recommendations to Congress, addressing, among other things, a method for eliminating by the year 2001 the debt owed the railroad retirement system.

The RUC Committee submitted a Report to the Congress on June 29, 1984, containing recommendations for restructuring the RUI system. Its members should be commended for their diligence and for the quality of their study. It should be no surprise that the bill being reported herewith is based in large part on the Committee's recommendations.

S. 1968 does not address the payment of the existing debt of the RUI sysetm, the future borrowing authority of the RUI system, or the recommendations of the RUC Committee with regard to those matters, as those issues have been addressed by the the Budget Reconciliation Act of 1986, (PL 99-272). In essence, that legislation would retire the debt by 1990 through a combination of revenues derived from a railroad unemployment repayment tax and a diversion of railroad retirement tax revenues.

It is important to recognize that PL 99-272 and the bill being reported by this Committee are complementary parts of a package of legislation revising and restructuring the RUI system. Both bills are necessary to restore and preserve the financial solvency of the system and provide future benefits in a manner that the Committee believes to be fair and equitable. And, neither bill relies upon general revenues to solve the problems besetting the system.

The Committee was in disagreement with the RUC Committee on one key issue. The latter recommended a one-time $135 million federal grant to the RUI system, in order to compensate for past preferential treatment given to the state unemployment compensation systems. The Labor Committee concluded, however, that such a federal grant or any such grant would be inappropriate given existing budgetary considerations.

IV. Committee Views

Generally, provisions of the bill address benefit amounts, eligibility requirements, the level of rail carrier contributions, and the administration of the RUI system. The principal features of the bill relating to each of those subjects are discussed below.

Increases in Benefit Amounts.—Section 2 of the RUI Act now provides a maximum daily benefit, for both unemployment and sickness, in the amount of $25. Virtually all eligible employees are paid the maximum amount. That $25 maximum, which is the equivalent of a $125 weekly benefit, has been in effect since 1976. Since that time, its actual value has been eroded by inflation and it

now lags significantly behind the maximum benefits payable by most of the state unemployment compensation systems.

The bill increases the daily maximum to $27, effective January 1, 1986 and provides a formula for determining benefits in years commencing after 1986. In 1987 and in subsequent years, the maximum benefit paid per day would be a sum equal to $25 plus two-thirds of the rate of increase in the Tier 1 railroad retirement (or social security) wage base. At no time would this sum be less than $27. The Committee believes that the $2 per day immediate increase, and the resulting $27 per day maximum (the equivalent of a $135 weekly benefit) is as much as prudently can be recommended in view of the financial condition of the RUI system, other costs being imposed on the railroads in the bill, and the relatively liberal qualifying requirements under the RUI system. The indexing formula will ensure that the real value of the daily benefit is not devalued over time.

Stricter Benefit Qualifications.—The Committee believes that existing eligibility requirements should be tightened in two respects. First, under section 3 of the RUI Act, employees are eligible for unemployment or sickness benefits if they have earned at least $1,500 in creditable wages during the applicable base year. This sum is equivalent to two and one-half months of employment at the current maximum compensation base level of $600. If an employee was hired in the applicable base year, he or she must have had compensated service in at least five months of the base year.

Under the bill, an employee would be required to earn an amount equal to five times a computed monthly compensation base and he or she must have compensated service in at least six months of the base year in order to qualify for benefits. As a result, those receiving benefits will more likely be regular railroad employees. It is estimated that this amendment will save the RUI Account $176.4 million over the period ending in the year 2000.

Second, under section 2(a) of the RUI Act, there is currently no waiting period before benefits are payable. The bill provides for the payment of benefits for only seven days in the first 14-day registration period and in effect provides a three-day waiting period. It is felt that where unemployment or sickness results in a loss of work for three days or less, a substitute source of income is not necessary. It is estimated that this provision will save the RUI Account $95.5 million over the period ending in the year 2000.

Increases in Contributions Payable by Employers.—Section 8 of the RUI Act sets employer contribution rates at one of five levels, ranging from 0.5% to 8%, depending upon the balance in the RUI Account. When the system is in debt to the railroad retirement system the 8% maximum rate is imposed.

The bill would increase the maximum rate to 12% a 50% increase over the existing maximum and the five-level table of possible rates would be replaced by a provision calling for experience rating. Consequently, the rate assigned to a particular employer during a calendar year, up to the 12% maximum, would be determined by the unemployment and sickness experience of that employer's work force during the preceding three years. If an employer accumulates a surplus of contributions over benefits, its contribution rate in the next calendar year may be reduced, while a de-

clining surplus or a deficit could lead to an increase in its contribution rate.

Regardless of its actual record, however, an employer must contribute to the RUI account every year. Each employer is required to pay 0.65% of its compensation base for administrative expenses, plus its share of any amount that would have been paid by other employers but for the 12% maximum cap. In addition, if the overall balance in the RUI Account falls below certain mandatory levels specified in the bill, a 1.5% or 2.5% surcharge rate is imposed on all employers during the following calendar year. This surcharge would not be imposed during a calendar year in which a 3.5% surtax imposed by PL 99–272 is in effect.

In addition, under section 8 of the RUI Act, employers' contributions to the RUI Account currently are based on the level of compensation paid to their employees up to a monthly maximum of $600. Congress placed the cap at $600 in the Railroad Retirement Solvency Act of 1983, which was an increase of $200 over the previous level. The bill provides for a two-thirds indexing of the monthly compensation base in a manner comparable to the indexing of the maximum daily benefit level. The monthly maximum compensation base would remain at its current $600 level through 1986. For years commencing after 1986, the maximum compensation base would be indexed to increases in the Social Security Tier 1 tax base, with the base being the greater of either $600 or the amount based on the Tier 1 formula.

Improved Administration of the RUI System.—It has been noted that one advantage of individual employer experience rating is that it provides an incentive for an employer to police benefit claims by its employees in order to ensure that individuals are not compensated for unjustified claims. To achieve this objective the bill would provide an employer with the right to participate in the claims process. The base-year employer or employers of a claimant would be permitted to provide relevant information to the Railroad Retirement Board when it conducts its investigation, to participate in hearings before the Railroad Retirement Board or in appeals from the Board to the courts, and to initiate such appeals. The Committee believes that employer involvement will help to ensure that benefits are paid to eligible employees.

Currently, the funds available for the administrative costs of running the program are insufficient. Therefore, the bill also would increase the portion of the rate alloted to administrative costs from 0.5% to 0.65%.

V. Cost Estimates

U.S. Congress,
Congressional Budget Office,
Washington, DC, March 13, 1986.

Hon. Orrin G. Hatch,
Chairman, Committee on Labor and Human Resources,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for S. 1968, the Railroad Unemployment Insurance Amendments of 1985, as ordered reported by

the Senate Committee on Labor and Human Resources on December 18, 1985.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

RUDOLPH G. PENNER.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 1968.

2. Bill title: The Railroad Unemployment Insurance Amendments of 1985.

3. Bill status: As ordered reported by the Senate Committee on Labor and Human Resources on December 18, 1985.

4. Bill purpose: To amend the Railroad Unemployment Insurance Act to assure sufficient resources to pay benefits, to increase the maximum daily benefit, and for other purposes.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1986	1987	1988	1989	1990	1991
Budget authority		10.0	20.0	6.9	−14.8	−28.7
Estimated outlays	3.0	−3.1	0.8	5.7	21.1	15.8
Revenues		10.0	20.0	6.9	−14.8	−28.7
Net impact on deficit	3.0	−13.1	−19.2	−1.2	35.9	44.5

The costs of this bill would fall within budget function 600.

Basis for estimate: The fiscal impact of this bill was estimated using the Railroad Retirement Board's forecasting model of the railroad unemployment insurance program's obligations and revenues. It is assumed that these provisions would take effect as of July 1, 1986.

The bill would make three principal changes in the way in which railroad unemployment and sickness benefits are paid. It would (1) increase the maximum daily benefit amount payable to program beneficiaries from $25 to $27 and index it to changes in the wage base to which tier I railroad retirement taxes are applied; (2) expand the waiting period from four to seven days for an individual's first benefit registration period of each year; and (3) mandate that potential recipients have worked at least six months during a base year and have earned a certain level of compensation.

Below are estimates of the impact of each of these provisions if each were applied individually to current law. Because some interaction exists among the proposals, the estimates are not additive.

[By fiscal year, in millions of dollars]

	1986	1987	1988	1989	1990	1991
Maximum benefit increase	5.5	16.0	16.9	24.4	42.6	42.0
Waiting period expansion	−0.6	−6.6	−5.8	−6.1	−6.4	−6.0
Employment requirement	−1.8	−11.5	−8.8	−10.7	−11.3	−15.5

It is estimated that the maximum daily benefit would rise from $27 in fiscal year 1987 to $28 in fiscal years 1988 and 1989 and to $31 in fiscal years 1990 and 1991. The waiting period expansion is estimated to cause a beneficiary to lose four to six percent of his benefits on average. The savings resulting from the more rigorous employment requirements vary according to whether the Railroad Retirement Board forecasts a recession year for the railroad industry. During those years, the relative savings tend to be greater as fewer potential beneficiaries meet the more stringent work requirements.

The bill would make five major changes in the way in which railroad unemployment insurance contributions are determined. It would (1) increase the compensation base against which contributions are calculated from $600 per month to $660 per month on January 1, 1987, and index it for growth in the average annual wage thereafter; (2) increase the maximum contribution rate from 8 percent to 12 percent; (3) base individual employer contribution rates on past unemployment history; (4) impose a new surcharge on all employers for any year in which reserves in the account drop below certain levels (the maximum contribution rate of 12 percent for individual employers would not be exceeded); and (5) increase revenues going into the administrative fund by increasing the allocation of contributions by 0.15 percentage points from the current level.

The revenue estimates are based on the assumption that the revenues collected from the regular Railroad Unemployment Insuracne Act taxes are used to pay current benefits and are not used to repay past loans made from the Railroad Retirement Account. Revenue increases in the years 1987 through 1989 reflect the increase in the maximum taxable base from $600 to $660 per month. Tax rates decrease over the entire estimating period from the 8 percent rate in 1987, because case balances are built up during the years 1987 through 1989 when experience rating is being phased in. Tax rates lower than the current law rate raise enough revenue to cover current benefit payments. This causes revenue losses to occur in the years 1990 to 1991.

6. Estimated cost to State and local government: The CBO has determined that the budgets of state and local governments would not be directly affected by enactment of this bill.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Richard Hendrix and Linda Radey.

10. Estimate approved by: (James L. Blum., Assistant Director for Budget Analysis.)

VI. Regulatory Impact

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the following statement of the regulatory impact of S. 1968 is made.

A. ESTIMATED NUMBER OF INDIVIDUALS AND BUSINESSES REGULATED AND THEIR GROUPS OR CLASSIFICATIONS

S. 1968 provides for increased benefits and stricter qualifications for all rail employees and for greater participation and more equitable contributions from rail employers. There are currently approximately 350,000 rail employees and less than 500 rail employers who will be affected by this legislation.

B. ECONOMIC IMPACTION THE INDIVIDUALS, CONSUMERS, AND BUSINESSES AFFECTED

The economic impact associated with this bill will be an increase in unemployment and sickness benefits for employees to a level comparable with those benefits received by workers outside the rail industry. Rail employers will experience a change in their contribution rates. The contribution base will be indexed, and the employer's compensation rate and experience rated. Employers will be allowed to participate in the claims process involving their employees.

C. IMPACT OF THE ACT ON PERSONAL PRIVACY

This legislation has no impact on personal privacy. Certain required information, which already must be furnished to the Railroad Retirement Board to process a claim, will now be made available to the rail employers for their participation in the process.

D. ADDITIONAL PAPERWORK, TIME AND COSTS

It is estimated that S. 1968 may result, on occasion, in minimal additional paperwork requirements for some employers. In addition, employees will have to wait seven, instead of four, days for benefits in filing their first claim of each year, and employer contribution costs may increase or decrease due to experience rating.

VII. Section by Section Analysis

The Act would be entitled the "Railroad Unemployment Insurance Amendments of 1985."

TITLE I—FINANCING PROVISIONS

Section 101

Section 101(a) of the bill would amend section 1(i) of the Act to provide that the monthly maximum compensation base will remain at its current level of $600 through calendar year 1986, and will, thereafter, be indexed to increases in the Tier 1 tax base as applicable under the Railroad Retirement Tax Act. The monthly compensation base provided in section 1(a) would be utilized for purposes of assessing contributions under section 8 of the Act.

As indicated, after 1986, the monthly maximum under section 1(i) of the Act would be indexed. For any year after 1986, it would be the larger of either $600 or an amount determined by the formula:

$$B=\$600(+((A-37,800)/56,700))$$

B is the new monthly maximum. A is equal to the maximum annual amount subject to Tier 1 tax under section 3231(e)(2) of the Internal Revenue Code for the year for which the value of B is being determined. (The Tier 1 taxable amount for a year is equal to the annual maximum taxable amount for social security purposes under the Federal Insurance Contributions Act for the same year.) The number 37,800 is equal to the Tier 1 taxable base for 1984. The fraction 37,800/56,700 is equal to 2/3. The formula would index the monthly base for RUI Act contributions to 2/3 of the rate of increase in the Tier 1 (or social security) annual Taxable amount measured from 1984, the year the monthly unemployment contribution base was set at $600. The new amount would be rounded to the nearest $5.

Example

Assume that the Tier 1 (or social security) annual taxable base for 1987 will be $43,000. The RUI Act monthly taxable amount under section 1(i) of that Act would be determined:

$B=\$600(1+((43,000-37,800)/56,700))$, or

$B=\$600(1+(.0917))$, or

$B=\$655.02$, rounded to $655.

The 1987 monthly contribution base would be $655 under this example.

Section 101(a) of the bill would also amend certain other provisions of the RUI Act to conform those provisions to the indexed monthly compensation base and to the more rigorous eligibility requirements found in section 3 of the Act as amended by other provisions of the bill.

Section 101(b)(1) of the bill would amend section 1(k) of the Act to increase from $1,500 to five times the monthly compensation base the amount of earnings in the base year used in determining whether subsidiary remuneration would constitute remuneration and thus preclude payment of benefits. Section 2(c) of the Act would be amended by section 101(b)(2) of the bill to index the amount of monthly compensation that may be considered in determining the maximum duration of benefit payments. Section 4(a-2)(i)(A) of the Act would be amended by section 101(b)(3) of the bill to provide that an employee who voluntarily leaves his work without good cause would be disqualified from benefits until he will have earned compensation of at least five times the compensation base (up from $1,500 under current law). As amended section 4(a-2)(i)(A) would require that an employee must meet the compensation requirement applicable in the year in which he completes the requirement. For example, an employee who voluntarily leaves work in November 1986, returns to work in December and continues to work into 1987, would have to receive compensation of at least five times the indexed monthly compensation base applicable to 1987, not five times the monthly base of $600 applicable in 1986.

Section 101(b)(4) of the bill amends section 12 of the Act by adding a new subsection (r) which would require the Railroad Re-

tirement Board to compute on an annual basis the monthly compensation base and the other indexed amounts tied to that base, to publish notice of such amounts in the Federal Register, and to notify employers and employee representatives of the amounts for the next calendar year. The new section 12(r) would also require the Board to compute on an annual basis the maximum daily benefit rate for benefit years after 1986 as provided under section 2(a) of the Act as amended by section 201 of this bill.

Section 101(c) of the bill provides effective dates for this section.

Section 102

Section 102(a) of the bill would amend section 8(a) of the RUI Act by modifying the method by which the contribution rate is determined and to provide for indexing of the maximum amount of compensation subject to contributions, in conformity with the amendment found in section 101 of the bill. Under current law, the contribution rate is fixed by the Board at one of five possible levels, based on the balance in the RUI Account, with a maximum rate of 8%. The bill provides that the contribution rate would remain at 8% with respect to compensation paid in calendar months prior to the end of the first full calendar year after enactment of the bill, after which the rate of tax imposed on employers would vary in accordance with the "experience rating" of individual employers, subject to a 12% maximum.

As recommended by the RUC Committee, the RUI system will be put on an experience rating basis utilizing what is termed a "reserve-benefit ratio method" of assessing experience. This experience rating, which will ultimately be based part on an employer's experience over a three-year period, will be phased in, with the rate applicable from the date of enactment until the end of the first full calendar year after enactment being 8% for all employers. A partially experience-rated rate based on one year's experience will be applicable in the next calendar year with a partially experience-rated rate based on two years' experience applicable in the third full calendar year after enactment. The experience-based rates will be averaged with the 8% rate (for either two years or one year to provide a three-year average) to produce the actual rate for the next calendar year.

In the fourth full calendar year after enactment, and in following years, each employer would pay contributions at a rate consisting of a basic rate (which is described below), plus 0.65% for the railroad unemployment administration fund, plus the amount of any surcharge applicable in the year, plus an amount based on the applicable pooled charge ratio, subject to a 12% maximum.

The basic rate consists of three elements. The first element is the allocated-experience rate and is based on the allocable benefits and charges for each ralroad. This element's purpose is to ensure that each railroad is ultimately responsible for all benefits paid to that railroad's employees. The second element is the unallocated experience element which covers benefits and charges which are not allocable to any railroad. Its purpose is to ensure that responsibility for benefits and charges which cannot be specifically allocated to a single railroad is fairly shared. The third element allows a credit for the employer's pro-rated share of certain surplus funds in the

RUI Account in the year following a year, if any, in which that balance exceeds a specific high amount.

In addition to the basic employer contribution rates derived as described above, all employers would be charged the administration-expense rate of 0.65%, which would be added to the basic rate.

Unless there is a surtax in effect during a calendar year under section 3321(c)(1)(B) of the Internal Revenue Code (which P.L. 99-272 enacts), the bill provides a surcharge of either 1.5% or 2.5% to be added to the employer's basic rate during any calendar year is the balance of the account was below certain amounts on the preceding June 30. Any such surcharge rate also would be added to the basic rate. The maximum total rate for an employer under the bill cannot exceed 12%.

Finally, all employers would also pay a rate based on the pooled charge ratio, which would be added to the basic rate. Specifically, that is the difference between what should be collected for the system to keep it in balance, based on prior experience, and what is actually produced by the proposed formula after application of the 12% maximum. This difference arises because certain employers contribute less than what otherwise would be required of them, when their developed rate is above the maximum. The difference is pro-rated among the remaining participating employers on the basis of current annual taxable payroll, again with the rate thereof being subject to the overall maximum rate of 12%. Eventually, these amounts would be paid into the system by the railroads that were responsible for the benefits being paid but did not cover the total cost due to the 12% maximum rate, because the reserve-ratio component ensures that, over time, each employer will contribute amounts equal to all benefits allocable to it.

New employers would be provided transition rates which would be phased into fully experience-rated contribution rates over a three year period. Until the end of the first full calendar year of coverage, new employers would have a rate based on the average system rate over three previous years. During the second and third years, they would have rates based on weighted averages of their experience as well as the system's experience. By the fourth year, they would be covered by the provisions for experience rating applicable to all other employers.

Section 102(b) of the bill amends section 8(b) of the Act to provide experience rating for employee representatives, a very small group of individuals working for rail labor organizations not recognized under the Railway Labor Act.

Section 102(c) of the bill amends section 8(f) of the Act to increase the portion of the tax allocable to administration from 0.5% of the monthly contributions base to 0.65% of the monthly contributions base.

Section 102(d) of the bill amends section 8(h) of the Act to provide employers a right to contest the accuracy of the rates determined for them by the Board.

Section 102(e) of the bill amends section 8 of the Act to include three new subsections under which the Board, by October 15 of each year, would make various computations relevant to experience rating, publish notice of its determinations in the Federal Register, and notify each employer and employee representative of

its contribution rate for the next calendar year and of certain information relevant to the computations of that rate.

This section also requires the Board to make available upon request information necessary to verify the accuracy of the Board's determinations of the applicable contribution rate, upon payment of the cost to the Board of providing that information in response to the request.

Section 102(f) of the bill provides effective dates for the amendments made by section 102.

Section 103

Section 103(a) of the bill amends section 10(a) of the Act to provide that all contributions in excess of an amount equal to 0.65% (increased from 0.5%) of the monthly amount subject to contributions are transferred to the RUI Account. This is a conforming amendment to the change made in section 102(c) of the bill.

Section 103(b) provides the effective date for this change.

Section 104

Section 104(a) of the bill is also a conforming change, raising from 0.5% to 0.65% the amount of the monthly compensation base transferred to the Railroad Unemployment Insurance Administative Fund.

Section 104(b) provides the effective date for this section.

TITLE II—BENEFIT PROVISIONS

Section 201

Section 201(a)(1)–(3) of the bill would amend section 2(a) of the Act to provide that in the first registration period in a benefit year benefits shall be payable for maximum of seven days, thus in effect imposing an initial waiting period for unemployment and sickness benefits similar to the waiting period under most state unemployment compensation programs. The waiting period must be separately satisfied for both unemployment and sickness benefits. If an employee has claimed unemployment benefits in a given benefit year and satisfied the waiting period for such benefits and thereafter claims sickness benefits in that year, he must then satisfy the waiting period for sickness benefits. Since four days are excluded under current law from benefit payments in a 14-day registration period to offset the fact that a 14-day period normally includes four off or rest days, the provision in general effect provides a three-day waiting period.

Section 201(a)(4)–(7) of the bill amends section 2(a) of the Act to increase maximum daily benefits to $27 for registration periods beginning after 1985 and before July 1, 1987. Thereafter, under a new paragraph (3) which would be added to section 2(a) of the Act by section 201(a)(8) of the bill, the maximum daily benefit would be indexed on a benefit-year basis to 2/3 of the rate of increases in wages as reflected in the increases in the maximum compensation base provided for Tier 1 taxes under the Railroad Retirement Tax Act. The provision indexing the maximum daily benefit amount will provide for increases in the benefit amount in much the same

way and at similar intervals as the contribution base is increased under the amendment proposed in section 101(a) of this bill.

Section 201(b) provides the effective dates for these amendments.

Section 202

Section 202 of the bill would amend section 3 of the Act to require that an employee would have to have received compensation in at least six months in the base year and have had compensation in the base year of at least five times the amount of the monthly compensation base for the base year in order to be eligible for benefits. For example, an employee applying for benefits in benefit year 1986, which begins on July 1, 1986, would have to have had compensation in calendar 1985 (base year) in at least six months (not including deemed service months credited under the Railroad Retirement Act) of that year and have received at least $3,000 in compensation in that year (five times the compensation base of $600 applicable in the base year).

Section 202(b) provides the effective date for this amendment.

TITLE III—MISCELLANEOUS PROVISIONS

Section 301

Section 301(a)–(c) of the bill would amend section 5 of the Act to provide for notifying an employee's base-year employer or employers when an employee claims benefits and when the employee is awarded benefits; affords a base-year employer the right to submit relevant information prior to the initial determination of a claim; to appeal an award administratively and ultimately to the courts; and to participate in appeals by others from denial of a claim. The filing of an appeal by a base-year employer would not suspend the award of benefits or effect the payment of those benefits, but, if successful, would render the payment previously made erroneous and subject to recovery under section 2(d) of the Act or otherwise.

Section 301(d) of the bill would amend section 12(d) and section 12(n) of the Act to provide for disclosure by the Board to a claimant's base-year employer of information relevant to the identity of the claimant or to the validity of the claim, including relevant medical records, enabling full and fair participation by such employer in appeals, hearings and other proceedings relating to a claim.

Section 301(e) provides the effective date for this section.

VIII. Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

RAILROAD UNEMPLOYMENT INSURANCE ACT

AN ACT To regulate interstate commerce by establishing an unemployment insurance system for individuals employed by certain employers engaged in interstate commerce, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

DEFINITIONS

SECTION 1. For the purposes of this Act, except when used in amending the provisions of other Acts—

(a)–(h) * * *

(i)*(1)* The term "compensation" means any form of money remuneration, including pay for time lost but excluding tips, paid for services rendered as an employee to one or more employers, or as an employee representative: *Provided, however,* That in computing the compensation paid to any employee, no part of any month's compensation in excess of [$300 for any month before July 1, 1954, or in excess of $350 for any month after June 30, 1954, and before the calendar month next following the month in which this Act was amended in 1959, or in excess of $400 for any month after the month in which this Act so amended and before January 1984, or in excess of $600 for any month after 1983] *the monthly compensation base for any month has determined under subdivisions (2) and (3) of this subsection,* shall be recognized. Solely for the purpose of determining the compensation received by an employee in a base year, the term "compensation" shall include any separation allowance or subsistence allowance paid under any benefit schedule provided under section 701 of title VII of the Regional Rail Reorganization Act of 1973 and any termination allowance paid under section 702 of that Act, but does not include any other benefits payable under that title. The total amount of any subsistence allowance payable under benefit schedule provided pursuant to section 701 of the Regional Rail Reorganization Act of 1973 shall be considered as being compensation in the month in which the employee first timely filed a claim for such an allowance. Such term does not include remuneration for service which is performed by a nonresident alien individual for the period he is temporarily present in the United States as a nonimmigrant under subparagraph (F) or (J) of section 101(a)(15) of the Immigration and Nationality Act, as amended, and which is performed to carry out the purpose specified in subparagraph (F) or (J), as the case may be. A payment made by an employer to an individual through the employer's payroll shall be presumed, in the absence of evidence to the contrary, to be compensation for service rendered by such individual as an employee of the employer in the period with respect to which the payment is made. An employee shall be deemed to be paid, "for time lost" the amount he is paid by an employer with respect to an identifiable period of absence from the active service of the employer, including absence on account of personal injury, and the amount he is paid by the employer for loss of earnings resulting from his displacement to a less remunerative position or occupation. If a payment is made by an employer with respect to a personal injury and includes pay for time lost, the total payment shall

be deemed to be paid for time lost unless, at the time of payment, a part of such payment is specifically apportioned to factors other than time lost, in which event only such part of the payment as is not so apportioned shall be deemed to be paid for time lost. Compensation earned in any calendar month before 1947 shall be deemed paid in such month regardless of whether or when payment will have been in fact made, and compensation earned in any calendar year after 1946 but paid after the end of such calendar year shall be deemed to be compensation paid in the calendar year in which it will have been earned if it is so reported by the employer before February 1 of the next succeeding calendar year or, if the employee establishes, subject to the provisions of section 6 of this Act, the period during which such compensation will have been earned.

(2) For purposes of subdivision (1) of this subsection, the 'monthly compensation base' shall be $400 for calendar months prior to 1984, $600 for calendar months after 1983 and prior to 1987, and for calendar months after 1986, the amount computed under subdivision (3).

(3) The monthly compensation base for each calendar year after 1986 shall be $600 or, if larger, the amount computed pursuant to the following formula: B=$600(1+((A−37,800)/56,700)). For purposes of this formula, 'B' represents the dollar amount of the monthly compensation base, and 'A' represents the amount of the 'applicable base' relating to Tier 1 taxes for the calendar year for which the monthly compensation base is being computed, as determined under section 3231(e)(2) of the Internal Revenue Code of 1954. If the monthly compensation base computed under this formula is not a multiple of $5, it shall be rounded to the nearest multiple of $5, with such rounding being upward in the event that the amount computed is equidistant between two multiples of $5.

(j) * * *

(k) Subject to the provisions of section 4 of this Act, (1) a day of unemployment, with respect to any employee, means a calendar day on which he is able to work and is available for work and with respect to which (i) no remuneration is payable or accrues to him and (ii) he has, in accordance with such regulations as the Board may prescribe, registered at an employment office; (2) a "day of sickness", with respect to any employee, means a calendar day on which because of any physical, mental, psychological, or nervous injury, illness, sickness, or disease he is not able to work, or, with respect to a female employee, a calendar day on which, because of pregnancy, miscarriage, or the birth of a child, (i) she is unable to work or (ii) working would be injurious to her health, and with respect to which (i) no remuneration is payable or accrues to him, and (ii) in accordance with such regulations as the Board may prescribe, a statement of sickness is filed within such reasonable period, not in excess of ten days, as the Board may prescribe: *Provided, however,* That "subsidiary remuneration", as hereinafter defined in this subsection, shall not be considered remuneration for the purpose of this subsection except with respect to an employee whose base-year compensation, exclusive of earnings from the position or occupation in which he earned such subsidiary remuneration, is less than [$1,500] *an amount equal to 5 times the monthly*

compensation base for months in such base year as computed under subsection (i); Provided further, That remuneration * * *

(l)–(u) * * *

BENEFITS

SEC. 2. (a)*(1)* Benefits shall be payable to any qualified employee for each day of unemployment in excess of [four during any registration period] *seven during the first registration period within a benefit year and for each day of unemployment in excess of four during any subsequent registration period in the same benefit year: Provided, however,* That in any case in which the Board finds that his unemployment was due to a stoppage of work because of a strike in the establishment, premises, or enterprise at which he was last employed, no benefits shall be payable for the first fourteen days of unemployment due to such stoppage of work. [Benefits shall be payable to any qualified employee for each day of sickness after the fourth consecutive day of sickness in a period of continuing sickness, but excluding sevem days of sickness in the first registration period in a benefit year and excluding four days of sickness in any registration period.] *Benefits shall be payable to any qualified employee for days of sickness after the seventh consecutive day of sickness in a period of continuing sickness, but excluding seven days of sickness in the first registration period in a benefit year and excluding four days of sickness in any subsequent registration period in the same benefit year.* A period of continuing sickness means (i) a period of consecutive days of sickness, whether from one or more causes, or (ii) a period of successive days of sickness due to a single cause without interruption of more than ninety consecutive days which are not days of sickness.

(2) The daily benefit rate with respect to any such employee for such day of unemployment or sickness shall be in an amount equal to 60 per centum of the daily rate of compensation for the employee's last employment in which he engaged for an employer in the base year, but not less than $12.70. *Provided, however,* That for registration periods beginning after June 30, 1975, but before July 1, 1976, such amount shall not exceed $24 per day of such unemployment or sickness [and], that for registration periods beginning after June 30, 1976, *but before January 1, 1986,* such amount shall not exceed $25 per day of such unemployment or sickness, *that for registration periods beginning after December 31, 1985, but before July 1, 1987, such amount shall not exceed $27 per day of unemployment or sickness, and that for registration periods beginning after June 30, 1987, such amount shall not exceed the maximum daily benefit rate provided in subdivision (3) of this subsection.* The daily rate of compensation referred to in this paragraph shall be determined by the Board on the basis of information furnished to the Board by the employee, his employer or both.

(3) On or before June 1 of 1987 and of each year thereafter, the Board shall determine the maximum daily benefit rate which shall be applicable with respect to days of unemployment or days of sickness in registration periods beginning after June 30 of each such year. The maximum daily benefit rate for each benefit year shall be the amount computed pursuant to the following formula, but not

less than $27: BR = $25(1 + ((A − 600)/900)). For purposes of this formula, 'BR' represents the maximum daily benefit rate, and 'A' represents the amount obtained by dividing the amount of the 'applicable base' relating to tier I taxes as determined under section 3231(e)(2) of the Internal Revenue Code of 1985 for the calendar year in which the benefit year begins by 60, with this quotient being rounded down to the nearest $100. If the maximum daily benefit rate computed under this formula is not a multiple of $1, it shall be rounded to the nearest multiple of $1, with such rounding being upward in the event the amount computed is equidistant between two multiples of $1.

(4) In computing benefits to be paid days of unemployment shall not be combined with days of sickness in the same registration period.

(b) The benefits provided for in this section shall be paid to an employee at such reasonable intervals as the Board may prescribe.

(c) The maximum number of days of unemployment within a benefit year for which benefits may be paid to an employee shall be one hundred and thirty, and the maximum number of days of sickness within a benefit year for which benefits may be paid to an employee shall be one hundred and thirty: *Provided, however,* That the total amount of benefits which may be paid to an employee for days of unemployment within a benefit year shall in no case exceed the employee's compensation in the base year, and the total amount of benefits which may be paid to an employee for days of sickness within a benefit year shall in no case exceed the employee's compensation in the base year except that notwithstanding the provisions of section l(i) of this Act, in determining the employee's compensation in the base year for purposes of this proviso and the second proviso of this subsection, any money remuneration paid to the employee for services rendered as an employee [not in excess of $775 in any month shall be taken into account] *shall be taken into account that is not in excess of $775 in any month prior to 1987 and, in any month in a base year after 1986, is not in excess of an amount which bears the same ratio to $775 as the monthly compensation base for that year as computed under section l(i) bears to $600: Provided further,* That, with respect to an employee who * * *

(d)–(h) * * *

QUALIFIED EMPLOYEE

SEC. 3. An employee shall be a "qualified employee" if the Board finds that *he will have had compensation with respect to each of not less than six months in the base year and that his compensation in the base year (excluding earnings in any month in excess of the monthly compensation base as provided in section 1(i) of the Act with respect to the base year) will not have been less than an amount equal to the five times the monthly compensation base as provided in section 1(i) of this Act with respect to the base year.*

DISQUALIFYING CONDITIONS

SEC. 4. (a–1) * * *

(a–2) There shall not be considered as a day of unemployment with respect to any employee—

(i)(A) subject to the provisions of subdivision (B) hereof, any of the days in the period beginning with the day with respect to which the Board finds that he left work voluntarily, and continuing until he has been paid compensation of not less than [$1,500] *$3,000* with respect to time after the beginning of such period *and before 1987 or, if any part of such compensation is paid in a calendar year after 1986, not less than an amount equal to 5 times the monthly compensation base for months in such calendar year, as computed under section 1(i);*

* * *

(b)–(e) * * *

CLAIMS FOR BENEFITS

SEC. 5. (a) * * *

(b) The Board is authorized and directed to make findings of fact with respect to any claim for benefits and to make decisions as to the right of any claimant to benefits. The Board is further authorized to hold each such hearings, to conduct such investigations and other proceedings, and to establish, by regulations or otherwise, such procedures as it may deem necessary or proper for the determination of a right to benefits. *When an application for benefits is filed with the Board, the Board shall provide notice of such application to the claimant's base-year employer or employers and afford such employer or employers an opportunity to submit information relevant to the application before making an initial determination with respect to the application. When the Board initially determines to pay benefits to a claimant under this Act, the Board shall provide notice of such determination to the claimant's base-year employer or employers.*

(c) Each qualified employee whose claim for benefits has been denied in whole or in part upon an initial determination with respect thereto upon a basis other than one which is reviewable pursuant to one of the succeeding paragraphs of this subsection shall be granted an opportunity for a fair hearing thereon before a referee on such other reviewing body as the Board may establish or assign thereto. *In any such case, the Board or the person or reviewing body so established or assigned shall, by publication or otherwise, notify all parties properly interested of their right to participate in the hearing and of the time and place of the hearing.*

Any claimant whose claim for benefits has been denied in an initial determination with respect thereto upon the basis of his not being a qualified employee, and any claimant who contends that under an initial determination of his claim he has been awarded the benefits at less than the proper rate, may appeal to the Board for the review of such determination. Thereupon the Board shall review the determination and for such review may designate one of its officers or employees to receive evidence and to report to the Board thereon together with recommendations. In any such case the Board or the person so designated shall, by publication or otherwise, notify all parties properly interested of their right to participate in the proceeding and, if a hearing is to be held, of the time and place of the hearing. At the request of any party properly interested the Board shall provide for a hearing, and may provide

for a hearing on its own motion. The Board shall prescribe regulations governing the appeals provided for in this paragraph and for decision upon such appeal.

Any base-year employer of a claimant whose claim for benefits has been granted in whole or in part, either in an initial determination or in a determination after a hearing pursuant to the first paragraph of this subsection, and who contends that the determination is erroneous for a reason or reasons other than one that is reviewable under the fourth paragraph of this subsection, may appeal to the Board for the review of such determination. Despite such an appeal, the benefits awarded shall be paid to such claimant, subject to recovery by the Board if and to the extent found on the appeal to have been erroneously awarded. The Board shall take such action as is appropriate to recover the amount of such benefits, including (if feasible) adjustment in subsequent payments pursuant to the first two paragraphs of section 2(d) of this Act. Upon an appeal, the Board shall review the determination appealed from and for such review may designate one of its officers or employees to receive evidence and report to the Board, together with recommendations. In any such case the Board or the person so designated shall, by publication or otherwise, notify all parties properly interested of their right to participate in the proceeding and, if a hearing is to be held, of the time and place of the hearing. At the request of any party properly interested the Board shall provide for a hearing, and may provide for a hearing on its own motion. The Board shall prescribe regulations governing the appeals provided for in this paragraph and for decisions upon such appeal.

In any case in which benefits are awarded to a claimant in whole or in part upon the basis of pay earned in the service of a person or company found by the Board to be an employer as defined in this Act but which denies that it is such an employer, such benefits awarded on such basis shall be paid to such claimant subject to a right of recovery of such benefits. The Board shall thereupon designate one of its officers or employees to receive evidence and to report to the Board on whether such benefits should be repaid. The Board may also designate one of its officers or employees to receive evidence and to report to the Board whether or not any person or company is entitled to a refund of contributions or should be required to pay contributions under this Act, regardless of whether or not any claims for benefits will have been filed upon the basis of service in the employ of such person or company, and shall follow such procedure if contributors are assessed and payment is refused or payment is made and a refund claimed upon the basis that such person or company is or will not have been liable for such contributions. In any such case the Board or the person so designated shall, by publication or otherwise, notify all parties properly interested of their right to participate in the proceedings and, if a hearing is to be held, of the time and place of the hearing. At the request of any party properly interested the Board shall provide for a hearing, and may provide for a hearing on its own motion. The Board shall prescribe regulations governing the proceedings provided for in this paragraph and for decisions upon such proceedings.

Final decision of the Board in the cases provided for in the preceding [two] *three* paragraphs shall be communicated to the

claimant and to the other interested parties within fifteen days after it is made. Any properly interested party notified, as hereinabove provided, of his right to participate in the proceedings may obtain a review of any such decision by which he claims to be aggrieved or the determination of any issue therein the manner provided in subsection (f) of this section with respect to the review of the Board's decisions upon claims for benefits and subject to all provisions of law applicable to the review of such decisions. Subject only to such review, the decision of the Board upon all issues determined in such decisions shall be final and conclusive for all purposes and shall conclusively establish all rights and obligations, arising under this Act, of every party notified as hereinabove provided of his right to participate in the proceedings.

For purposes of this subsection and subsections (d) and (f) of this section, any base-year employer of the claimant is a properly interested party.

(d)–(e) * * *

(f) Any claimant, or any railway labor organization organized in accordance with the provisions of the Railway Labor Act, of which claimant is a member, *or any base-year employer of the claimant,* or any other party aggrieved by a final decision under subsection (c) of this section, may, only after all administrative remedies within the Board will have been availed of and exhausted, obtain a review of any final decision of the Board by filing a petition for review within ninety days after the mailing of notice of such decision to the claimant or other party, or within such further time as the Board may allow, in the United States court of appeals for the circuit in which the claimant or other party resides or will have had his principal place of business or principal executive office, or in the United States Court of Appeals for the Seventh Circuit or in the United States Court of Appeals for the District of Columbia. A copy of such petition, together with initial process, shall forthwith be served upon the Board or any officer designated by it for such purpose. *A copy of such petition also shall forthwith be served upon any other properly interested party, and such party shall be a party to the review proceeding.* Service may be made upon the Board * * *

(g)–(i) * * *

SECS. 6–7. * * *

CONTRIBUTION

SEC. 8. [(a) Every employer shall pay a contribution, with respect to having employees in his service, equal to the percentage determined as set forth below of so much of the compensation as is not in excess of $600 for any calendar month paid by him to any employee for any services rendered to him. If compensation is paid to an employee by more than one employer with respect to any such calendar month, the contributions required by this subsection shall not apply to more than $600 of the aggregate compensation paid to such employee by all such employers with respect to such calendar month, and each employer (other than a subordinate unit of a national railway-labor-organization employer) shall be liable for that portion of the contribution with respect to such compensa-

tion paid by all such employers which the compensation paid by him to such employee for services rendered during such month bears to the total compensation paid by all such employers to such employee for services rendered during such month. In the event that the compensation so paid by such employers to the employee for services rendered during such month is less than $600, each subordinate unit of a national railway-labor-organization employer shall be liable for such portion of any additional contribution as the compensation paid by such employer to such employee for services rendered during such month bears to the total compensation paid by all such employers to such employee for services rendered during such month:

If the balance to the credit of the railroad unemployment insurance account as of the close of business on September 30 of any year, as determined by the Board is:	*The rate with respect to compensation paid during the next succeeding calendar year shall be (percent):*
$300,000,000 or more	0.5
$200,0000,000 or more but less than $300,000,000	4.0
$100,000,000 or more but less than $200,000,000	5.5
$50,000,000 or more but less than $100,000,000	7.0
Less than $50,000,000	8.0

As soon as practicable following the enactment of this Act, the Board shall determine and proclaim the balance to the credit of the account as of the close of business on September 30, 1947, and on or before December 31 of 1948 and of each succeeding year, the Board shall determine and proclaim the balance to the credit of the account as of the close of business on September 30, of such year; and in determining such balance as of September 30 of any year, the balance to the credit of the railroad unemployment insurance administration fund as of the close of business on such date shall be deemed to be a part of the balance of the credit of such account.]

(a) CONTRIBUTIONS.—

(1) AMOUNT OF CONTRIBUTIONS.—

(A) GENERAL RULE.—Every employer shall pay a contribution, with respect to having employees in his service, equal to the percentage determined under subparagraph (B), (C) or (D), whichever is applicable, of so much of the compensation paid in any calendar month by such employer to any employee as is not in excess of the monthly compensation base for that month as computed under section 1(i). If compensation is paid to an employee by more than one employer in any calendar month, the contributions required by this subsection shall not apply to any amount of the aggregate compensation paid to such employee by all such employers in such calendar month which is in excess of such monthly compensation base, and each employer (other than a subordinate unit of a national-railway-labor-organization employer) shall be liable for that portion of the contribution with respect to such compensation paid by all such employers which the compensation paid by him to such employee bears to the total compensation paid in such month by all

such employers to such employee. In the event that the compensation paid by such employers to the employee in such month is less than such monthly compensation base, each subordinate unit of a national-railway-labor-organization employer shall be liable for such portion of any additional contribution as the compensation paid by such employer to such employee in such month bears to the total compensation paid by all such employers to such employee in such month.

(B) TRANSITIONAL CONTRIBUTIONS.—With respect to compensation paid in calendar months prior to the end of the first full calendar year following the date of the enactment of the Railroad Unemployment Insurance Amendments of 1985, the contribution rate shall be 8 percent. With respect to compensation paid in calendar months in the next calendar year, the contribution rate shall be the smaller of 12 percent or the percentage computed pursuant to the following formula: $R=(2A+B)/3$. With respect to compensation paid in calendar months in third full calendar year following such date of enactment, the contribution rate shall be the smaller of 12 percent or the percentage computed pursuant to the following formula: $R=(A+2C)/3$. For purposes of these formulae, R represents the applicable contribution rate expressed as a percentage for months in the calendar year, A represents the contribution rate determined under the first sentence of this subparagraph, B represents the percentage rate for the employer as determined under subparagraph (C) for the second full calendar year following the date of the enactment of the Railroad Unemployment Insurance Amendments of 1985, and C represents the percentage rate for the employer as determined under subparagraph (C) for the third full calendar year following such date of enactment. For purposes of computing B and C, (i) the percentage rate computed under subparagraph (C), if more than 12 percent, shall not be reduced to 12 percent; and (ii) any computations which under subparagraph (C) are to be made on the basis of a 4-quarter or a 12-quarter period ending on a given June 30 shall be made on the basis of a period commencing with the first day of the first calendar quarter following the date of the enactment of the Railroad Unemployment Insurance Amendments of 1985, and ending on that June 30, and the amount so computed shall be increased to an amount that bears the same ratio to the amount so computed as 4 or 12 bears to the number of calendar quarters in the period on which the computation was based.

(C) EXPERIENCE-RATED CONTRIBUTIONS.—With respect to compensation paid in calendar months in a calendar year which begins after the expiration of three full calendar years following the date of the enactment of the Railroad Unemployment Insurance Amendments of 1985, the contribution rate for each empoloyer shall be determined as follows:

(i) STEP 1.—The employer's benefit ratio as of the preceding June 30 shall be computed to four decimal points in accordance with subdivision (2) of this subsection.

(ii) STEP 2.—The employer's reserve ratio as of the preceding June 30 as computed to four decimal points in accordance with subdivision (4) of this subsection shall be subtracted from the ratio arrived at under step 1.

(iii) STEP 3.—The pooled credit ratio for the calendar year, if any, as computed to four decimal points in accordance with subdivision (12) of this subsection shall be subtracted from the ratio arrived at under step 2.

(iv) STEP 4.—The total arrived at under step 3 shall be multiplied by 100 so as to obtain a percentage rate, which shall be rounded to the nearest 100th of 1 percent. If the total arrived at under step 3 is 0 or less than 0, the percentage rate as so computed shall be 0.

(v) STEP 5.—0.65 shall be added to the percentage rate arrived at under step 4, representing the portion of the employer's contribution which is to be deposited to the credit of the fund under subsection (i).

(vi) STEP 6.—Unless a surtax is in effect with respect to such calendar year under section 3321(c)(1)(B) of the Internal Revenue Code of 1954, the surcharge rate for the calendar year, if any, as computed in accordance with paragraph (14) shall be added to the percentage arrived at under step 5.

(vii) STEP 7.—The pooled charge ratio for the calendar year, if any, as computed to 4 decimal points in accordance with paragraph (13) shall be multiplied by 100, and the amount so computed shall be added to the percentage rate arrived at under step 6.

(viii) STEP 8.—The percentage rate arrived at after the application of steps 5, 6, and 7 shall be the contribution rate applicable to the employer in the following calendar year; except that, if the total is in excess of 12 percent, the contribution rate shall be reduced to 12 percent.

(D) NEW-EMPLOYER CONTRIBUTION RATES.—Notwithstanding the provisions of subparagraphs (B) and (C), the contribution rate applicable to a new employer who does not become subject to this Act until after the date of the enactment of the Railroad Unemployment Insurance Amendments of 1985 shall be determined as follows:

(i) With respect to compensation paid in calendar months prior to the end of the first full calendar year in which the employer is subject to this Act, the contribution rate shall be the average contribution rate paid by all employers during the three calendar years preceding the calendar year before the calendar year in which the compensation is paid. The average contribution rate shall be determined (I) by dividing the aggregate contributions paid by all employers under this

subsection in those three calendar years by the aggregate compensation with respect to which such contributions were paid, and (II) by multiplying the resulting ratio as computed to four decimal points by 100.

(ii) With respect to compensation paid in calendar months in the next calendar year, the contribution rate shall be the smaller of 12 percent or the percentage rate computed pursuant to the following formula: R=(2(A2)+B)/3.

(iii) With respect to compensation paid in calendar months in the third full calendar year in which the employer is subject to the coverage of this Act, the contribution rate shall be the smaller of 12 percent or the percentage rate computed pursuant to the following formula: R=(A3+2C)/3. With respect to all calendar months in calendar years subsequent to that calendar year, the contribution rate shall be determined under subparagraph (C).

(iv) For purposes of the formulae in clauses (ii) and (iii), R represents the applicable contribution rate expressed as a percentage for months in the calendar year; A1 represents the contribution rate determined under clause (i) for such employer's first full calendar year: A2 represents the contribution rate which would have been determined under clause (i) if the employer's second calendar year had been its first full calendar year; A3 represents the contribution rate which would have been determined under clause (i) if the employer's third calendar year had been its full calendar year; B represents the contribution rate for the employer as determined under subparagraph (C) for the employer's second full calendar year; and C represents the contribution rate for the employer as determined under subparagraph (C) for the employer's third full calendar year. For purposes of computing B and C, (I) the percentage rate computed under subparagraph (C), if more than 12 percent shall not be reduced to 12 percent, and (II) any computations which under subparagraph (C) are to be made on the basis of a 4-quarter or 12-quarter period ending on a given June 30, shall be made on the basis of a period commencing with the first day of the first calendar quarter following the date on which the employer first paid compensation subject to this Act and ending on such June 30, and the amount so computed shall be increased to an amount which bears the same ratio to the amount so computed as 4 or 12 bears to the number of calendar quarters in the period on which the computation was based.

(2) BENEFIT RATIO.—An employer's benefit ratio as of any given June 30 shall be determined by dividing all benefits charged to the employer under subdivision (15) of this subsection during the 12 calendar quarters ending on such June 30 by the employer's three-year compensation base as of such June 30

as computed in accordance with subdivision (3) of this subsection.

(3) THREE-YEAR COMPENSATION BASE.—An employer's three-year compensation base as of any given June 30 is the aggregate compensation with respect to which contributions were paid by the employer under this subsection in the 12 calendar quarters ending on such June 30.

(4) RESERVE RATIO.—An employer's reserve ratio as of any given June 30 shall be computed by dividing the employer's reserve balance as of such June 30, as computed in accordance with subdivision (6) of this subsection, by that employer's one-year compensation base as of such June 30, as computed in accordance with subdivision (5) of this subsection. The employer's reserve ratio may be either a positive or a negative number, depending upon whether the employer's reserve balance is a positive or negative number.

(5) ONE-YEAR COMPENSATION BASE.—An employer's one-year compensation base as of any given June 30 is the aggregate compensation with respect to which contributions were paid by the employer under this subsection in the four calendar quarters ending on such June 30.

(6) RESERVE BALANCE.—An employer's reserve balance as of any given June 30 shall be determined by subtracting the employer's cumulative benefit balance as of such June 30, computed in accordance with subdivision (7) of this subsection, from the employer's net cumulative contribution balance as of such June 30, computed in accordance with subdivision (8) of this subsection. An employer's reserve balance may be either positive or negative, depending upon whether or not that employer's net cumulative contribution balance exceeds the employer's cumulative benefit balance.

(7) CUMULATIVE BENEFIT BALANCE.—An employer's cumulative benefit balance as of any given June 30 shall be determined by adding (i) the net amount of the benefits charged to the employer in accordance with subdivision (15) of this subsection on or after the first day of the first calendar quarter after the date of the enactment of the Railroad Unemployment Insurance Amendments of 1985, up to and including such June 30, and (ii) the cumulative amount of the employer's unallocated charges for the same period, if any, as computed in accordance with subdivision (9) of this subsection.

(8) NET CUMULATIVE CONTRIBUTION BALANCE.—An employer's net cumulative contribution balance as of any given June 30 shall be determined as follows:

(i) STEP 1.—The sum of (I) all contributions paid by the employer pursuant to this subsection, (II) all taxes paid by the employer pursuant to section 3321(c)(1)(B) of the Internal Revenue Code of 1954, and (III) any taxes paid by the employer pursuant to section 3321(c)(1)(A) of the Internal Revenue Code of 1954 (after the outstanding balance of loans made under section 10(d) of this Act prior to October 1, 1985, plus interest, have been paid) on or after the first day of the first calendar quarter after the date of the enactment of the Railroad Unemployment Insurance Amend-

ments of 1985, up to and including such June 30, shall be computed.

(ii) STEP 2.—An amount equal to the amount of such contributions deposited to the credit of the fund under subsection (i) of this section shall be subtracted from the amount arrived at under step 1.

(iii) STEP 3.—An amount equal to the aggregate amount by which such contributions were reduced in prior calendar years as a result of pooled credits, if any, under subdivision (1)(C)(iii) of this subsection shall be added to the amount arrived at under step 2.

(9) UNALLOCATED CHARGE.—An employer's unallocated charge as of any given June 30 is the amount which, as of such June 30, bears the same ratio to the system unallocated charge balance, computed in accordance with subdivision (10) of this subsection, as the employer's one-year compensation base, computed in accordance with subdivision (5) of this subsection, bears to the system compensation base, computed in accordance with subdivision (11) of this subsection.

(10) SYSTEM UNALLOCATED CHARGE BALANCE.—The system unallocated charge balance as of any given June 30 shall be determined as follows:

(i) STEP 1.—The aggregate amount of all interest paid by the account on loans from the Railroad Retirement Account after September 30, 1985, pursuant to section 10(d) of this Act, during the four calendar quarters ending on that June 30 shall be computed.

(ii) STEP 2.—The aggregate amount of any additions to the system unallocated charge balance specified in subdivisions (15) and (16) of this subsection during that period shall be added to the amount arrived at under step 1.

(iii) STEP 3.—The aggregate amount of any other expenditures by the account during such period not chargeable to any individual employer under subdivision (15) of this subsection or to the fund under section 11 of this Act shall be added to the amount arrived at under step 2.

(iv) STEP 4.—The aggregate amount of all income to the account, under section 10(a)(iv) or section 10(a)(vii) of this Act, during that period shall be subtracted from the amount arrived at under step 3.

(v) STEP 5.—The aggregate amount of all transfers to the account, pursuant to section 11(d) of this Act, during that period shall be subtracted from the amount arrived at under step 4.

(vi) STEP 6.—The aggregate amount of all other income and receipts of the account, during that period, which are not assigned to individual employer balances shall be subtracted from the amount arrived at under step 5.

(vii) STEP 7.—The net cumulative contribution balance of each employer whose balance has been canceled pursuant to subdivision (16) of this subsection, during that period, calculated as of the date of such cancellation, shall be subtracted from the amount arrived at under step 6.

(11) SYSTEM COMPENSATION BASE.—The system compensation base as of any given June 30 shall be determined by adding together the amounts of the one-year compensation bases of all employers and employee representatives subject to this Act, computed in accordance with subdivision (5) of this subsection, as of such June 30.

(12) POOLED CREDIT RATIO.—The pooled credit ratio, if any, for a calendar year shall be determined as follows:

(i) STEP 1.—The balance to the credit of the account as of the close of business on the preceding June 30, including any amounts in the account attributable to loans made to the account under section 10(d) of this Act prior to October 1, 1985, but disregarding the obligation of the account to repay such loans and interest thereon, shall be computed. There will be a pooled credit ratio for the calendar year only if that balance is in excess of the greater of $250,000,000 or of the amount that bears the same ratio to $250,000,000 as the system compensation base as of that June 30 bears to the system compensaiion base as of the first June 30 which occurs more than twelve calendar months after the date of the enactment of the Railroad Unemployment Insurance Amendments of 1985, as computed in accordance with subdivision (11) of this subsection.

(ii) STEP 2.—If there is such an excess amount as determined under step 1, it shall be divided by the system compensation base as of the June 30 proceding the calandar year. The result shall be the pooled credit ratio for the calendar year.

(13) POOLED CHARGE RATIO.—The pool charge ratio, if any, for a calendar year shall be determined as follows:

(A) STEP 1.—With respect to each employer whose contribution rate for that calendar year as computed through step 6 of paragraph (1)(C) was greater than 12 percent, the employer's 1-year compensation base as of the preceding June 30, as computed in accordance with paragraph (5), shall be multiplied by the difference between—

(i) the percentage rate as computed through step 6 of paragraph (1)(C); and

(ii) 12 percent.

(B) STEP 2.—The amounts arrived at under step 1 for all such employers shall be added so as to obtain an aggregate amount for all such employers.

(C) STEP 3.—For each employer whose contribution rate as computed under steps 1, 2, and 3 of paragraph (1)(C) was less than zero, the percentage rate by which such employer's rate was raised in order to bring the employer's rate to zero shall be mulitiplied by the employer's 1-year compensation base as of the preceding June 30. The amounts computed under the preceding sentence for all such employers shall be added, and the total so computed shall be subtracted from the amount arrived at under step 2.

(D) STEP 4.—The aggregate amount arrived at under step 3 shall be divided by the system compensation base for all employers as of the preceding June 30 as computed under

paragraph (11), minus the compensation base of those employers whose rates computed through step 6 of paragraph (1)(aC) exceeded 12 percent. The result is the pooled charge ratio for the calendar year.

(14) SURCHARGE RATE.—The surcharge rate for a calendar year, if any, shall be determined as follows:

(i) STEP 1.—The balance to the credit of the account as of the close of business on the preceding June 30, including any amounts in the account attributable to loans made to the account under section 10(d) of this Act prior to October 1, 1985, but disregarding the obligation of the account to repay such loans and interest thereon, shall be computed. There will be a surcharge rate for the calendar year only if such balance is less than the greater of $100,000,000 or of the amount which bears the same ratio to $100,000,000 as the system compensation base as of that June 30 bears to the system compensation base as of the first June 30 which occurs more than twelve calendar months after the date of the enactment of the Railroad Unemployment Insurance Amendments of 1985, as computed in accordance with subdivision (11) of this subsection.

(ii) STEP 2.—If the balance to the credit of the account is less than the greater of the amounts referred to in the second sentence of step 1 but is equal to or greater than the greater of $50,000,000 or the amount which bears the same ratio to $50,000,000 as the system compensation base as of that June 30 bears to the system compensation base as of the first June 30 which occurs more than twelve calendar months after the date of the enactment of the Railroad Unemployment Insurance Amendments of 1985, the surcharge rate for the calendar year shall be 1.5 percent. If the balance to the credit of the account is less than the greater of the amounts referred to in the preceding sentence, the surcharge rate for the calendar year shall be 2.5 percent.

(15) CHARGEABLE BENEFITS.—Commencing the first day of the first calendar quarter beginning after the date of the enactment of the Railroad Unemployment Insurance Amendments of 1985, all benefits paid to an employee for days of unemployment or days of sickness shall be charged to that employee's base year employer by adding amounts equal to the amounts of such benefits to the employer's cumulative benefit balance; except that benefits paid by reason of strikes or work stoppages growing out of labor disputes shall not be added to the employer's cumulative benefit balance but instead shall be added to the system unallocated charge balance, and a sum equal to each amount realized in recovery for overpayment, erroneous payment or reimbursement of benefits and credited to the account pursuant to section 10(a)(v) or 10(a)(viii) of this Act shall be subtracted from the cumulative benefit balances of the employers of the employees to whom such an amount was paid as a benefit in the proportion to the amount by which each such employer's cumulative benefit balance was increased as a result of the payment of the benefit. All benefits paid to an employee who had more than one base-year employer shall be charged to the cumulative

benefit balances of the employee's base year employers (A) in reverse chronological order of the employee's employment with each such employer in the base year if the employer at the time of the claim was the last base year employer, and the amount charged to each employer shall not exceed the compensation paid by the employer to the employee in the base year, and (B) in all other cases, in the same ratio as the compensation paid to such employee by the employer bears to the total of such compenation paid to such employee by all such employers in the base year. All benefits chargeable under the preceding sentence to an employer for which the Board has canceled balances under subdivision (16) of this subsection shall be added to the system unallocated charge balance.

(16) DEFUNCT EMPLOYER.—Whenever the Board determines, pursuant to such regulations as the Board may prescribe, that an employer has permanently ceased to pay compensation with respect to which contributions are payable pursuant to this subsection, the Board shall, effective the date of the Board's determination, transfer the employer's net cumulative contribuiion balance as a subtraction from, and cumulative benefit balance as an addition to, the system unallocated charge balance, and cancel all other accumulations of the employer.

(17) INDIVIDUAL EMPLOYER RECORD.—As of the first day of the first calendar quarter beginning after the date of the enactment of the Railroad Unemployment Insurance Amendments of 1985, the Board shall commence maintaining an individual employer record with respect to each employer, and the records necessary to determine pooled charges, pooled credits and unallocated charge balances for the system. Whenever a new employer begins paying compensation with respect to which contributions are payable pursuant to this subsection, the Board shall establish and maintain an individual employer record for such employer. The term 'individual employer record' means an individual employer's benefit ratio, reserve ratio, one-year compensation base, three-year compensation base, unallocated charge, reserve balance, net cumulative contribution balance, and cumulative benefit balance.

(18) JOINT EMPLOYER RECORDS.—Pursuant to regulations prescribed by the Board, the Board may allow two or more employers, upon application, to establish and maintain, or to discontinue, a joint individual employer record for such employers as though such joint record constituted a single employer's individual employer record.

(19) MERGERS, CONSOLIDATIONS OR OTHER CHANGES IN EMPLOYER IDENTITY.—(A) In the event or a merger, consolidation, unification, or reorganization in which an employer combines with another employer and the combination entails no partitioning of the property of the employer, the individual employer records of the two employers shall be combined into a joint individual employer record if the parties request such joint treatment pursuant to subdivision (18) of this subsection or if the Board otherwise determines pursuant to regulations prescribed by the Board that such joint treatment is desirable.

(B) In the event of a merger, consolidation, unification, or reorganization in which an employer combines with another entity which is not an employer, the employer's individual employer record shall attach to the combined entity.

(C) In the event property of an employer is sold or transferred to another employer or other entity, or is partitioned among two more employers or entities, the cumulative benefit balance, net cumulative contribution balance, one-year compensation base, and three-year compensation base of the employer shall be prorated among the employers which receive the property, including any entities which become employers by virtue of such transfer or partition, in such equitable manner as the employer by regulation shall prescribe.

(D) The cumulative benefit balance, net cumulative contribution balance, one-year compensation base, and three-year compensation base of an employer which reincorporates or otherwise alters its corporate identity in a transaction not involving a merger, consolidation, or unification shall attach to the reincorporated or altered entity.

(E) If an employer abandons property or discontinues service but continues to operate as an employer, the employer's individual employer record shall continue to be calculated as provided in this subsection without retroactive adjustment.

(b) Each employee representative shall pay a contribution with respect to so much of the compensation paid to him for services performed as an employee representative [during any month] as is not[, for any such calendar month,] in excess of [$600,] *the monthly compensation base computed in accordance with section 1(i) of this Act,* at a rate [applicable to employers in accordance with] *which shall be determined under* subsection (a) of this section[. The compensation of an employee representative and the contribution with respect thereto shall be determined] in the same manner and with the same effect as if the employee organization by which such employee representative is employed were an employer as defined in this Act.

(c) Not later than October 15 of each year, the Board shall proclaim the balance to the credit of the account as of the preceding June 30 for purposes of subdivisions (12) and (14) of subsection (a) of this section, the balance of any advances to the account under section 10(d) of this Act after September 30, 1985, which has not been repaid with interest as provided in such section as of September 30 of that year, the system compensation base as of the June 30 as computed in accordance with subdivision (11) of that subsection, the system unallocated charge balance as of that June 30, as computed in accordance with subdivision (10) of that subsection, and the pooled credit ratio, pooled charge ratio and surcharge rate, if any, as determined under subdivision (12), (13), or (14) of that subsection and applicable in the following calendar year. As soon as is practicable thereafter, the Board shall punish notice in the Federal Register of the amounts so determined and proclaimed.

(d) Not later than the last day of any calendar quarter, the Board shall notify each employer and employee representative of its net cumulative contribution balance and cumulative benefit balance as of the end of the preceding calendar quarter, as computed in accord-

ance with subdivisions (7) and (8) of subsection (a) of this section as of the last day of such preceding calendar quarter rather than as of a given June 30 if such last day is not a June 30. Not later than October 15 of any year, the Board shall notify each employer and employee representative of its benefit ratio, reserve ratio, one-year compensation base, three-year compensation base, unallocated charge, and reserve balance as of the preceding June 30 as computed in accordance with subdivisions (2), (3), (4), (5), (6), and (9) of subsection (a) of this section, and of the contribution rate applicable to the employer or employee representative in the following calendar year as computed under subdivision (1)(B), (C), or (D) of that subsection.

(e) Notwithstanding any other provision of law, upon request by an employer or employee representative, the Board shall make available to such employer or employee representative any information available to the Board which may be necessary to verify the accuracy of a contribution rate determined by the Board to be applicable to such employer or employee representative, or of any component of that contribution rate including the accuracy of the employer's individual employer record, upon payment by such employer or employee representative to the Board of the cost incurred by the Board in making such information available. The amounts so paid to the Board shall be credited to and deposited in the fund.

[(c)**]** *(f)* In the payment of any contribution under this Act, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

[(d)**]** *(g)* If more or less than the correct amount of the contribution required by this section is paid with respect to any compensation, then, under regulations prescribed under this Act by the Board, proper adjustments with respect to the contributions shall be made, without interest, in connection with subsequent contribution payments made under this Act by the same employer or employee representative.

[e**]** *(h)* If more or less than the correct amount of the contribution required by this section is paid with respect to any compensation and the overpayment or underpayment of the contribution cannot be adjusted under subsection (d) of this section, the amount of the overpayment shall be refunded from the account, or the amount of the underpayment shall be collected, in such manner and at such times (subject to the statute of limitations properly applicable thereto) as may be prescribed by regulations of the Board.

[f**]** *(i)* The contributions required by this Act shall be collected by the Board and shall be deposited by it with the Secretary of the Treasury of the United States, such part thereof as equals **[**0.5**]** *0.65* per centum of the total compensation on which such contributions are based to be deposited to the credit of the fund and the balance to be deposited to the credit of the account.

[g**]** *(j)* The contributions required by this Act shall be collected and paid quarterly or at such other times and in such manner and under such conditions not inconsistent with this Act as may be prescribed by regulations of the Board, and shall not be deducted, in whole or in part, from the compensation of employees in the employer's employ. If a contribution required by the Act is not paid when due, there shall be added to the amount payable (except in

the case of adjustments made in accordance with the provisions of this Act) interest at the rate of 1 per centum per month or fraction of a month from the date the contribution became due until paid. Any interest collected pursuant to this subsection shall be credited to the account.

[h] *(k)* All provisions of law, including penalties, applicable with respect to any tax imposed by the provisions of the Railroad Retirement Tax Act, insofar as applicable and not inconsistent with the provisions of this Act, shall be applicable with respect to the contributions required by this Act: *Provided,* That all authority and functions conferred by or pursuant to such provisions upon any officer or employee of the United States, except the authority to institute and prosecute, and the function of instituting and prosecuting, criminal proceedings, shall, with respect to such contributions, be vested in and exercised by the Board or such officers and employees of the Board as it may designate therefore. *The remedies under the first sentence of an employer or employee representative who contests the amount of contributions payable by him shall include, and extend to, a contention that the contribution rate determined by the Board under subsections (a) or (b) of this section to be applicable to such employer or employee representative is inaccurate or otherwise improper.*

SEC. 9. * * *

RAILROAD UNEMPLOYMENT INSURANCE ACCOUNT

SEC. 10. (a) The Secretary of the Treasury shall maintain in the unemployment trust fund established pursuant to section 904 of the Social Security Act an account to be known as the railroad unemployment insurance account. This account shall consist of (i) such part of all contributions collected pursuant to section 8 of this Act as is in excess of [0.5] *0.65* per centum of the * * *

(b)–(d) * * *

RAILROAD UNEMPLOYMENT INSURANCE ADMINISTRATION FUND

SEC. 11. (a) The Secretary of the Treasury shall maintain in the unemployment trust fund established pursuant to section 904 of the Social Security Act an account to be known as the railroad unemployment insurance administration fund. This unemployment insurance administration fund shall consist of (i) such part of all contributions collected pursuant to section 8 of this Act as equals [0.5] *0.65* per centum of the total * * *

(b)–(d) * * *

DUTIES AND POWERS OF THE BOARD

SEC. 12. (a)–(c) * * *

(d) Information obtained by the Board in connection with the administration of this Act shall not be revealed or open to inspection nor be published in any manner revealing an employee's identity: *Provided, however,* That (i) the Board may arrange for the exchange of any information with governmental agencies engaged in functions related to the administration of this Act; (ii) the Board may disclose such information in cases in which the Board finds

that such disclosure is clearly in furtherance of the interest of the employee or his estate; [and] (iii) any claimant of benefits under this Act shall, upon his request, be supplied with information from the Board's records pertaining to his claim; *and (iv) the Board shall disclose to any base-year employer of a claimant for benefits any information, including information as to the claimant's identity, that is necessary or appropriate to notify such employer of the claim for benefits or to allow full and fair participation by such employer in an appeal, hearing or other proceeding relative to the claim pursuant to section 5 of this Act.* Subjects to the * * *

(e)–(m) * * *

(n) Any employee claiming, entitled to, or receiving sickness benefits under this Act may be required to take such examination, physical, medical, mental, or otherwise, in such manner and at such times and by such qualified individuals, including medical officers or employees of the United States or a State, as the Board may prescribe. The place or places of examination shall be reasonably convenient for the employee. No sickness benefits shall be payable under this Act with respect to any period during which the employee unreasonably refuses to take or willfully obstructs an examination as prescribed by the Board.

Any doctor who renders any attendance, treatment, attention, or care, or performs any examination with respect to a sickness of an employee, upon which a claim or right to benefits under this Act is based, shall furnish the Board, in such manner and form and at such times as the Board by regulations may prescribe information and reports relative thereto and to the condition of the employee. An application for sickness benefits under this Act shall contain a waiver of any doctor-patient privilege that the employee may have with respect to any sickness period upon which such application is bases: *Provided,* That such information shall not be disclosed by the Board except in a [court] proceeding relating * * *

(o)–(q) * * *

(q) On or before December 1 of 1986 and of each year thereafter, the Board shall compute in accordance with section 1(i) the monthly compensation base which shall be applicable with respect to months in the following calendar year, and shall also compute the amounts in sections 1(k), 2(c), 3, and 4(a–2)(i)(A), which are related to changes in the monthly compensation base. On or before June 1 of 1987 and of each year thereafter, the Board shall compute in accordance with section 2(a)(3) the maximum daily benefit rate which shall be applicable with respect to days of unemployment or days of sickness in registration periods beginning after June 30 of each such year. Not later than 10 days after each such determination, the Board shall publish notice in the Federal Register and shall notify each employer and employee representative of the amount determined.

SEC. 13–17. * * *

IX. COMMITTEE ACTION

On December 18, 1985, the Committee on Labor and Human Resources reported an original bill, S. 1968, to amend the Railroad

Unemployment Insurance Act to assure sufficient resources to pay benefits, to increase the maximum daily benefit, and for other purposes. The bill was approved by a vote of 15 yeas and 0 nays, with one abstention (Mr. Quayle).

○